

FINAL APPEAL DECISION: PA21-2700

**Appeal Decision:** Appeal Granted in part; the tax penalty is partially waived.

**Hearing Issue:** Appeal of the 2021 Tax Year Penalty

**Hearing Date:** November 16, 2023

**Decision Date:** January 20, 2024

**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 1 and Appellant 2 are husband and wife who filed their 2021 tax return jointly as Married with no dependents. Appellant 1, the husband appeared at the hearing, and represented that he speaks on behalf of his wife - Appellant 2. The Hearing was held by telephone, on November 16, 2023. The procedures to be followed during the hearing were reviewed with Appellant 1 who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant 1. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 16, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by both Appellants on November 22, 2022
- Exhibit 4: Letter from Appellant, 2022 Form MA 1099-HC, Invoice from Health Connector (October 01, 2023), SAS Electronic Itinerary and Receipt dated 14NOV23; pictures of Appellants in Ukraine with commentary that they went to Ukraine in December 2023 - received as a result of an Open Records Form from the Hearing Officer.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant 1 was age 40 and Appellant 2 was age 48 in January 2021, and they filed their Federal Income Tax return as Joint, Married with no Dependents (Exhibit 2).
2. The Appellants lived in Middlesex County in 2021 (Exhibit 2, 3 and Appellant 1 Testimony).

3. The Appellants' Federal Adjusted Gross Income for 2021 was \$101,842.00 (Exhibit 2).
4. The Appellants did not have health insurance for twelve months of tax year 2021 (Exhibit 2 and Appellant 1 Testimony).
5. The Appellants have each been assessed a twelve-month tax penalty for 2021 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellants filing their Federal tax return jointly as Married with no dependents, with an annual adjusted gross income of \$101,842 could afford to pay \$679 per month for health insurance. In accordance with Table 4, Appellant 2 (older spouse), age 48 living in Middlesex County, could have purchased private insurance for \$671 per month. Private insurance was affordable for Appellants.
8. Appellant 1 testified that in 2021 he moved with his wife to Massachusetts from Japan and prior to this he lived in a state that did not have a penalty for uninsured residents. He testified that he was not aware that Massachusetts had a penalty aspect to its' mandatory insurance law. He said his wife obtained employment in in mid-2021 and he was employed full-time. He added that his employer provided a stipend for health insurance with partial reimbursement of premiums up to \$300 per month. He testified that due to the pandemic in 2021 and the move to Massachusetts he was not easily motivated and often distracted (Appellant Testimony).
9. Appellant credibly stated that he did search for a policy quote via the Health Connector in 2021 and mistakenly believed that the quote he obtained was a per person quote and not for both he and his wife combined. He explained that his previous state of residency provided quotes for individuals. As a result - he determined the Health Connector to be too expensive. He added that he and his wife obtained health insurance in early 2022 via the Health Connector (Appellant Testimony and Exhibit 4)
10. The Appellants' income was more than 300% of the federal poverty level, which was \$51,720 for a household of two in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04). (Appellant 1 Testimony and Exhibit 2).
11. Appellant 1 estimated he and his wife had monthly living expenses that exceeded \$2,400 including rent. He added that he and his wife contribute nearly 10% of their annual income to various charities and/or churches. This amount was amended to \$8,000 annually, via the response to the Open Record request (Appellant 1 Testimony and Exhibit 4). Appellant 1 did

not provide any other evidence, either testimony or documents, of expenses he and his wife were obligated to pay, nor of any other circumstances that would create a hardship and prevent purchasing health insurance that was Minimum Credible Coverage compliant (Appellant Testimony).

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

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

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

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

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing their Federal tax return as Married filing Joint, with no dependents claimed and with an adjusted gross income of \$101,842, could afford to pay \$679 per month for health insurance. According to Table 4, Appellant 2, age 48, living in Middlesex County, could have purchased a private insurance plan for \$671 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellants in tax year 2021. Appellant was employed full time and testified to an employment benefit of \$300 a month toward health insurance which he did not partake in.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$51,720 for a household of two in 2021. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Appellants would not have qualified for MassHealth based on the income requirements in 2021.

Appellant 1 did not testify to any circumstances which would create a financial hardship precluding the purchasing of a health insurance policy that met MCC standards. Appellants did not provide evidence to

support that financial hardships were experienced in 2021, it is not likely it would have affected their overall financial situation if they purchased a MCC Compliant plan.

However, Appellant 1’s testimony and the documents he presented were credible. Appellants moved from a foreign country and previously lived in a state that did not have a penalty; they obtained an MCC compliant plan shortly after learning of the penalty. In addition, Appellant 1 was credible when he stated he mistakenly believed the quotes he received from the Health Connector were for only one of the Appellants. Appellant provided proof of charitable donations outside of Tax Year 2021, but estimated his 2021 donation up to \$8,000 for the year.

In light of these facts, which include the mistaken belief by Appellants’ that the quotes received for health insurance were for one person; their moving to Massachusetts in 2021 from Japan; and Appellant 2 not finding employment until mid-2021, I am exercising my discretion as the Hearing Officer and partially reducing the penalty for both Appellants from twelve (12) to eight (8) months.

The Appellants should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:

Appellant 1	<u>  12  </u>	Number of Months Assessed:	<u>  8  </u>
Appellant 2	<u>  12  </u>	Number of Months Assessed:	<u>  8  </u>

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 2021.

**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

FINAL APPEAL DECISION: PA22-1173

**Appeal Decision:** Appeal Granted in part; the tax penalty is waived in part and reduced to two months.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 8, 2024

**Decision Date:** January 27, 2024

**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 8, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 1, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 8, 2023.

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 42 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$99,901.00 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for eight months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a five month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$99,901 could afford to pay \$666 per month for health insurance. In accordance with Table 4, the Appellant, age 41, living in Middlesex County, could have purchased private insurance for \$318 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified that she started with a new full-time employer in June of 2022 and they did provide health care insurance as an employment benefit. She stated that she was required to select a plan via her employer's system and did not have a need to use the selected health insurance plan in 2022. She testified that when she was trying to gather her tax information in early 2023 she was told by her employer's HR department that she was not insured by the employer's plan for 2022 (Appellant Testimony and Exhibits 2 and 3).
9. Appellant stated that the series of emails she forwarded between herself and her employer's HR office support her position that she believed she was insured through her employer's plan in 2022. She said there was "glitch" in the system when she applied and she was not insured and she did not pay attention to her pay and did not notice that premiums were not deducted for health insurance (Appellant Testimony and Exhibit 3).
10. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). She stated that he did not make any inquiries into plan with the ConnectorCare or MassHealth in 2022 since she believed she was insured in compliance with Massachusetts law.
11. Appellant credibly testified that she is currently employed full time and has health insurance that meets the Massachusetts requirements. (Appellant Testimony and Exhibit 3).
12. Appellant estimated her monthly living expenses at \$2,000 (Appellant Testimony).

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

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

individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$99,901.00 could afford to pay \$666 per month for health insurance. According to Table 4, the Appellant, age 42, living in Middlesex County, could have purchased a private insurance plan for \$318 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. She would not have been eligible for MassHealth by the income requirements in place for 2022.

Appellant testified that she believed she was insured through her employer's health insurance plan. She offered as support for her position a chain of emails between herself and her employer's HR office from February to April of 2023. In these documents, she inquires as to her coverage in 2022 and is informed she did not have health insurance for the year. In addition, she is told in these emails of the premiums she would have paid for health insurance coverage in 2022 (\$824.06 or \$894.20 H.S.A.). She did not testify to any circumstances that would create an economic hardship if she purchased a health insurance policy. She testified that insurance premiums were not deducted from her pay and she was not aware of this.

Based on Appellant's testimony and the documents in the file, I conclude that Appellant did not have health insurance for the months in question in 2022. Further, she did not notice that her premiums were not being deducted from her salary. Not having a large deduction for health care premiums from a paycheck is not something that normally escape notices for a prolonged period. Although she testified that she had no need for health care during this period, thus had no reason to think she was not insured,

for such a period to last nearly eight months is not plausible. There is nothing in the file nor was testimony offered to support Appellant applying for health insurance through her employer. The emails offered demonstrate that Appellant inquired in 2023 if she was insured in 2022. The emails demonstrate the employer switched benefit brokers at the same time Appellant started as an employer, possibly explaining why she was not insured.

Health insurance was affordable to Appellant on the private market and through her employer, she was not eligible for ConnectorCare Coverage or MassHealth. She did not enroll in her employer's plan and claimed she thought she did. She did offer evidence to show that her employer's benefit broker was new and this could have led to confusion when Appellant picked a plan. In light of these facts, I am exercising my discretion as the Hearing Officer and it is determined Appellant's request to waive the penalty assessed against her of five months in Tax Year 2022 is granted in part and reduced to a two month penalty.

The Appellant should note that the granting of a partial waiver of her penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

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 2022.

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

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

Cc:                      Connector Appeals Unit



# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 12, 2023

Decision Date: December 27, 2023

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### 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 12, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 38 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Hampden County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$51,225.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 377% of the Federal Poverty level and based on her income, if all other conditions were met, she MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare via the Health Connector.
4. In 2022, the Appellant was employed as a Dental Assistant in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$400.00. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of December of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$51,225.00 was deemed able to pay \$324.42 per month for health insurance, or 7.60% of her income. According to Table 4, Appellant, age 38 and living in Hampden County, could have purchased private insurance for \$319.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

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11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$750.00	<u>Car Insurance</u>	\$250.00	<u>Medical/Dental</u>	\$42.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$280.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$63.00	<u>Food</u>	\$616.00	<u>Credit Cards</u>	
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$110.00	<u>Other:</u>	
<u>Electricity</u>	\$125.00	<u>Household &amp; Toiletries</u>	\$100.00		
<u>Car</u>	\$503.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$2,973.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$4,268.75. Her necessary expenses were determined to be \$2,973.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$497.48 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

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15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant testified that she attempted to reach out to the health Connector to apply for health insurance in 2022.
17. Appellant was informed that she would be forced to pay around \$300 per month in healthcare costs after completing the Application Process. (Appellant's Testimony). She declined to do so believing it was too expensive and would not fit into her budget.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

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The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$400.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on her income range and filing status, is 7.60%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$400.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2022, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 7.60% of the employee's projected household modified adjusted gross income.

The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 7.60% of the Appellant-employee's projected household modified adjusted gross income, as per Massachusetts state-specific guidelines. The employer's offering was 9.37% of the employee's income.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer's health coverage exceeds 7.60% of their household income and is deemed not affordable under the ConnectorCare guidelines, the Appellant may qualify for ConnectorCare or potential Advanced Premium Tax Credits (APTC).

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant may be eligible for Advance

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Premium Tax Credits (APTCs), but based on her income would not be eligible for ConnectorCare via the Health Connector. APTCs are federal tax credits used immediately to lower monthly health plan premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since their income is between 300% and 400% of the Federal Poverty Level, and they do not have access to affordable employer health coverage. Because of this, the Appellant had affordable coverage available to her via the Health Connector.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$51,225.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$324.42 per month; according to Table 4, Appellant, who was 38 years old in 2022, lived in Hampden County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$319.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,268.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$324.43 per month), the Appellant could have afforded private health insurance with a premium of \$319.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market and via the Health Connector, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

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Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,973.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is only \$497.48. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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 2022.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 22-1410

**Appeal Decision** The appeal is allowed; the tax penalty is waived.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 22, 2024

**Decision Date:** February 27, 2024

### **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 22, 2024. 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 (15 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. Appellant was 32 at the end of 2022. Exhibit 2.
2. Appellant lived in Middlesex County in 2022. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$64,102.

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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 2022 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 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards from January through September of 2022, but that he did have health insurance from October to December of that year. Exhibit 2.
6. At the start of 2022, Appellant worked part-time in a retail position. That job did not offer him health insurance.
7. In the middle of the year, he changed jobs after obtaining a full-time position. That job offered him health insurance after a three-month waiting period. When the waiting period was over, he enrolled in that insurance. He was insured as of the date of the hearing.
8. During the year, Appellant struggled financially. He had a significant amount of student loans and credit card debt that he was required to service. As a result, he fell behind in his other bills. He received a shutoff notice for electricity and actually lost electricity for a brief period. See Exhibit 3 (attachments.)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring a penalty. 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 this case, Appellant lacked insurance for only nine months out of the year. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only six months.

Because Appellant did not have health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must 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 2022 Schedule HC instructions at pages HC 7-9

During the period that Appellant was uninsured in 2022, he either worked at a part-time job that did not offer health insurance or he was in a three-month waiting period at his new job during which time he was not offered insurance. As a result, Appellant could not have obtained insurance through employment during the nine months that he was uninsured in 2022.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant's household income during 2022 was \$64,102 and therefore he was not income-eligible for Connector Care.

However, Appellant could have obtained affordable insurance on the private, non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$64,102 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,128 annually or \$427 a month. During 2022, a person like Appellant who lived in Middlesex County and was 32 years of age could have obtained health insurance for a monthly premium of \$290. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but didn't, I am required to consider 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 testified credibly that he had suffered a shutoff of electricity in 2022. He supported that testimony with bills from the electric company showing a shutoff and reinstatement. See Exhibit 3 (attachments). Under the Health Connector's regulations, grounds for a waiver of the penalty include receiving a shut off notice or actually being shut off from an essential utility such as electricity. 956 C.M.R. § 6.08(1)(b). Thus, Appellant has stated grounds that qualify him for a waiver. Additionally, I note that he had unusually high expenses in 2022 due to his debt load. Further, although his annual income establishes that insurance was affordable under state standards, his income was not steady throughout the year; rather, he earned less during the months that he was uninsured when he was working part-time. In light of all these factors, I conclude that Appellant is entitled to a waiver of the individual mandate penalty.

Accordingly, I am allowing this appeal and waiving the penalty in full.

#### **PENALTY ASSESSED**

Number of Months Appealed: 6

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 9, 2023           Decision Date: Wednesday, December 27, 2023

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**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 9, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 pages |

# **CONNECTOR APPEALS UNIT**



## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 40 years old in 2021. He filed his 2021 Massachusetts tax return as a single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2021 (Exhibit 1).
3. Appellant testified that most of this income was from his employment and some was from receiving unemployment payments from the state of Massachusetts in 2021. (Appellant's Testimony).
4. Appellant's Federal Adjusted Gross Income for 2021 was \$105,865.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 822% of the Federal Poverty level.
5. Appellant testified that he received unemployment compensation from the state of Massachusetts at some point in 2021 (Appellant's Testimony).
6. As a Massachusetts resident who received unemployment compensation in 2021, Appellant would be eligible for a Health Connector health insurance plan with no premium payments through the end of 2021, regardless of his income.
7. Therefore, if all other conditions were met, Appellant would be ELIGIBLE for a zero-dollar premium ConnectorCare health insurance plan for the remainder of 2021. The availability of plans without premiums for people who've been on unemployment benefits at any point in 2021 is part of the federal American Rescue Plan.
8. The Appellant was employed in 2021, as a Diesel Technician at Motor Service, Inc. and in a Full Time capacity. (Appellant's Testimony). The Appellant was offered health insurance in 2021 by his employer, at an approximate monthly cost of \$430.00 per month. (Appellant's Testimony)
9. Appellant testified that due to his ongoing respiratory health conditions, he was unwilling to return to his place of work during the COVID-19 Pandemic in light of the fear that he would become seriously ill. Appellant testified he would only go into his workplace at night, when it was free of other employees due to fears for his own health and safety.
10. Appellant testified that his employer did not allow him to maintain his employment in light of this issue and at a date and time uncertain to the Appellant, he was terminated from his employment sometime before June 2021. The Appellant also testified that he started as a new employee for a new company on or around January 11th, of 2022.

## CONNECTOR APPEALS UNIT



11. Appellant testified that he is unsure of when his termination took place, and for that reason cannot provide a specific answer about when the last time he had health insurance coverage was in 2021. Appellant testified he had no idea when his boss stopped paying his health care coverage premiums. Appellant testified he was not sure in 2021 when his boss texted him to inform him that was no longer employed.
12. Appellant testified that after his employment was terminated, he attempted to obtain health insurance from the Health Connector, but was denied as his attempts to do so were outside of the open enrollment period. Appellant contacted the Health Connector and was asked to provide information about when his last health insurance premiums were paid, but could not do so and was apparently, rejected from a request for a special enrollment period. (Appellant's Testimony).
13. Appellant also testified he enrolled in a health care insurance program after his rejection from the HealthConnector, but was unfamiliar with the name and couldn't provide additional details around the plan. (Appellant's Testimony). Appellant did testify that the above referenced plan had exorbitant prescription drug costs, specifically for medications he was on, requesting that he agree to a co-pay of \$20,000 per month for his medications. (Appellant's Testimony).
14. Appellant started collecting unemployment in June of 2021, approximately \$600 per week, until December.
15. The Appellant does not currently have Health Insurance through his employer, due to its high costs of approximately \$450 per month, as of February of 2023. (Appellant's Testimony).
16. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
17. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$105,865.00 was deemed able to pay \$705.77 per month for health insurance. According to Table 4, Appellant, age 40 and living in Worcester County, could have purchased private insurance for \$294.00 per month.
18. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).

## CONNECTOR APPEALS UNIT



19. Based on the appellant's testimony, his monthly income before taxes was \$8,822.08 per month.
20. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2021, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements. (Testimony of Appellant, Exhibit 2).
21. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
22. Appellant did not fall more than thirty days behind in rent payments in 2021. He did not receive any shut-off notices for basic utilities (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 2021 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 for 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 had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) he employment, through (2) the private market, or

## CONNECTOR APPEALS UNIT



through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant testified that due to his ongoing respiratory health conditions, he was unwilling to return to his place of work during the COVID-19 Pandemic in light of the fear that he would become seriously ill. Appellant testified he would only go into his workplace at night, when it was free of other employees due to fears for his own health and safety. Appellant also testified that this arrangement was inconsistent and that he would work to "help" his boss out at times. (Appellant's Testimony).

Appellant testified that his employer did not allow him to maintain his employment in light of this issue and at a date and time uncertain to the Appellant, he was terminated from his employment sometime before June 2021.

The Appellant also testified that he started as a new employee for a new company on or around January 11th, of 2022. Appellant did not provide any information or evidence to support specific identification of the months, or dates where he had insurance through his employment. (Appellant's Testimony).

### ConnectorCare

As a Massachusetts resident who received unemployment compensation in 2021, Appellant would be eligible for a Health Connector health insurance plan with no premium payments through the end of 2021, regardless of his income.

Therefore, if all other conditions were met, Appellant would be ELIGIBLE for a zero-dollar premium ConnectorCare health insurance plan for the remainder of 2021. The availability of plans without premiums for people who've been on unemployment benefits at any point in 2021 is part of the federal American Rescue Plan.

### Private Insurance

According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$105,865.00 was deemed able to pay \$705.77 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 40 and living in Worcester County, could have purchased private insurance for \$294.00 per month. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).

### Lack of Coverage due to employer's lack of information



## **CONNECTOR APPEALS UNIT**



Appellant testified that after his employment was terminated, he attempted to obtain health insurance from the Health Connector, but was denied as his attempts to do so were outside of the open enrollment period.

Appellant contacted the Health Connector and was asked to provide information about when his last health insurance premiums were paid, but could not do so and was apparently, rejected by the Health Connector in his request for a special enrollment period (SEP). (Appellant's Testimony). Appellant provided no information with regards to whether or not he requested an open enrollment waiver from the Office of Patient Protection (OPP) when he was denied enrollment.

Appellant also testified he eventually enrolled in a health insurance program after his rejection from the Health Connector, but was unfamiliar with the name and couldn't provide additional details around the plan. (Appellant's Testimony). Appellant did testify that the above referenced plan had exorbitant prescription drug costs, specifically for medications he was on, requesting that he agree to a co-pay of \$20,000 per month for his medications. (Appellant's Testimony).

### **Special Enrollment Period Question**

A special enrollment period is a time frame outside of the regular open enrollment period during which individuals can enroll in health insurance. In order to be approved for a special enrollment period due to losing health insurance coverage from a prior employer, the Massachusetts Health Connector needs to verify that the individual's coverage was terminated and that they are not eligible for continuing coverage through COBRA or another source.

The Appellant testified that he was denied a special enrollment period by the Health Connector when he could not confirm the last date his prior insurance had expired. Based on the Appellant's credible testimony, I would deem his employer's interference to be the main cause of him not being able to gain a special enrollment period. Per 956 CMR 6.08(3), I find that this interference caused him not to be able to gain access to a SEP via the Health Connector to apply for coverage on the private market or affordable coverage through an Employer-Sponsored Insurance program.

Appellant then proceeded to sign up for an alternative healthcare option which he was aware did not meet minimum creditable coverage, stating that he thought "something was better than nothing." (Appellant's Testimony). Appellant testified that he was very disappointed in the new plan given its associated costs, and he decided, being a few months away from the regular enrollment period, "threw his hands up" and decided to forgo health insurance until he began his next job in the new year. (Appellant's Testimony).

The Appellant stated that he should have the tax penalty waived because his employer

## CONNECTOR APPEALS UNIT



failed to provide him with the necessary information to allow him to gain access to a special enrollment period through the Health Connector. (Appellant's Testimony). I agree with his statement. But for the timing of his employer's interference, the Appellant may have been able to secure affordable coverage through private insurance, but as he credible testified, he was forced to engage with the Health Connector in a manner that used up several months trying to obtain information from his prior employer to see if he was eligible for coverage through the Health Connector.

Without information on when the last health insurance premium was paid from his employer, it is not possible to determine if the individual's prior coverage has actually been terminated, and therefore the Massachusetts Health Connector cannot approve the individual for a special enrollment period. The Appellant testified he was unable to obtain this information through any known method and because of this, he missed his opportunity to enroll in Health Insurance through the Health Connector in the private market or any other market contained in the exchange.

I credit the Appellant's testimony that his employer failed to provide reasonable and adequate information that would have allowed him to gain access to a special enrollment period. Based on the conduct of the Appellant's employer, his ability to enroll in affordable coverage was negatively affected and because of this, I find that the Appellant did not have access to affordable healthcare coverage that met minimum creditable coverage requirements.

Per 956 CMR 6.08(3), the Connector shall consider any other grounds that an Appellant may claim demonstrates that he could not afford to purchase health insurance that met minimum creditable coverage standards. In this case, the Appellant has claimed his employer's failure to provide necessary information prevented him from gaining access to a special enrollment period during which he could have enrolled in affordable health insurance coverage. I find this constitutes valid grounds under 956 CMR 6.08(3) for the Appellant not having access to an affordable health insurance program with minimum creditable coverage.

### Conclusion

Because of the Appellant's employer's lack of reasonable communication and notice, forcing the Appellant to miss the opportunity to sign up for a special enrollment period, the Appellant's tax penalty should be waived as he had no access to affordable healthcare coverage through no fault of his own.

This aligns with 956 CMR 6.08(3), under which the Connector shall consider any grounds an Appellant claims demonstrate they could not afford coverage meeting minimum creditable standards. Here, the employer's conduct prevented the Appellant from gaining affordable coverage.

## **CONNECTOR APPEALS UNIT**



Since the Appellant has demonstrated valid grounds for not having affordable minimum creditable coverage in 2021, his tax penalty is waived.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he 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 2021.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 10, 2023

Decision Date: Wednesday, December 27, 2023

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### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 10, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 pages
Exhibit 3	Appeal Request Form (dated 9/26/2020) with a Claim ID: 202001 from the Department of Unemployment Assistance	1 page

# CONNECTOR APPEALS UNIT



- |           |   |        |
|-----------|---|--------|
| Exhibit 4 | Correspondence from the Department of Unemployment Assistance (dated 9/8/2020), with Claim ID 190950    | 1 page |
| Exhibit 5 | Correspondence from the Health Insurance Processing Center (dated 2/15/2022) with Notice ID 0016433738. | 1 page |

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 59 years old in 2021. She filed her 2021 Massachusetts tax return as Married filing jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$82,212.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 472% of the Federal Poverty level and, based on her joint income, the appellant and her husband would not qualify for ConnectorCare or any Advanced Premium Tax Credits.
4. The Appellant was employed in 2021, as a Consultant and in a Full Time capacity. (Appellant's Testimony). Appellant did experience a period of unemployment during 2021, and was only employed in her position from September 2021 through December of 2021. (Appellant's Testimony).
5. Appellant was not offered health insurance by her employer. (Appellant's Testimony).
6. The Appellant does not currently have Health Insurance through their employer, or the Health Connector, as of March of 2023. (Appellant's Testimony).
7. During the hearing, the Appellant provided testimony regarding her health insurance coverage. She stated that she does not currently have health insurance in 2023. She also testified that she lost her job in 2020 and began working with a temp agency in September of 2021.
8. In between January of 2021 and the time she began working with the temp agency in September of 2021, Appellant testified that she applied to the Health Connector.
9. Appellant testified that she encountered residency issues when applying for insurance during the interim period. The Appellant testified that she promptly submitted her residency documents via fax when she became aware of the issues, but did not receive a response until she was denied coverage in February of 2022. (Appellant's Testimony and Exhibit 5).

# CONNECTOR APPEALS UNIT



10. Appellant testified that she was surprised by her denial, as she had submitted all of the appropriate paperwork and that this is why she was appealing the tax penalty.
11. Appellant also testified that she was covered by her employer's insurance during most of 2022, but was laid off in August of that year. The Appellant testified that she applied for insurance through the Health Connector again in late 2022, and at that time her residency status was not an issue.
12. Appellant reapplied for insurance in October of 2022, but ultimately canceled the coverage due to the high cost, which she became aware of when her enrollment became active in January of 2023. (Appellant's Testimony). The Appellant cited an \$8,000 medical bill resulting from a broken wrist as a contributing factor to her decision.
13. Ultimately, the Appellant became enrolled in a health insurance plan in January of 2023, but later canceled it due to the expense.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
15. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$82,212.00 was deemed able to pay \$548.08 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 59 and living in Essex County, could have purchased private insurance for \$802.00 per month.
16. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
17. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$2,067.00	<u>Car Insurance</u>	\$167.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>		<u>Gas (Car)</u>	\$100.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$238.00	<u>Food</u>	\$484.00	<u>Credit Cards</u>	\$0.00

## CONNECTOR APPEALS UNIT



<u>Heat</u>	\$134.00	<u>Cell Phone</u>	\$130.00	<u>Other:</u>	\$234.00
<u>Electricity</u>	\$275.00	<u>Household &amp; Toiletries</u>	\$60.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$20.00	<u>Total:</u>	\$4,031.00

18. Based on the appellant's testimony, her monthly income before taxes was \$6,851.00 per month, while her necessary expenses were \$4,031.00 per month. This would leave, as a ballpark figure, approximately \$1,792.35 left over.
19. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof.(Testimony of Appellant, Exhibit 2).
20. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
21. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
22. Appellant testified that she believes in 2021, she followed the instructions of the correspondence she received from the Health Connector and sent in the residency documentation which was required to allow her to be eligible to enroll in a health connector plan.
23. Appellant further testified that the only reason she wasn't able to finish her application and purchase health insurance was because the Health Connector incorrectly failed to apply her residency documentation to her 2021 case, but they successfully did so in 2022, when she was able to sign up for coverage through the Health Connector. I credit the appellant's testimony that an administrative error may have caused her difficulties as she described them.

## ANALYSIS AND CONCLUSIONS OF LAW

# CONNECTOR APPEALS UNIT



The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to their testimony

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 for 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 had no health insurance in 2021. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) she employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

## Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by their employer. Appellant testified, and I find the testimony to be credible, that her employer made no health insurance available to her while she was employed during 2021.

## ConnectorCare Eligibility

Based on the information before me, the Appellant would have been INELIGIBLE for insurance through the ConnectorCare program during 2021.

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is



## CONNECTOR APPEALS UNIT



affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. *See* 26 CFR § 1.36B-2(c)(3).

Because the coverage offered via the Appellant's employer was unavailable, the next step is to see if Appellant was eligible for ConnectorCare based on her income level as it compares to the Federal Poverty Level. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Upon reviewing the income information of the appellant, it becomes clear that her earnings exceeded 400% of the federal poverty level. Consequently, this income level disqualifies her from receiving subsidized coverage through ConnectorCare via the Health Connector for the year 2021.

As per the eligibility criteria, to be eligible for the Advance Premium Tax Credit (APTC), a tax filer must have an expected household income between 100% and 400% of the federal poverty level for the year in which coverage is sought (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also qualify for a subsidized ConnectorCare health insurance plan with additional state premium assistance if their household income does not exceed 300 percent of the Federal Poverty Level and they are eligible for an APTC (956 Code Mass. Regs. 12.09 (1)). The review of the circumstances outlined above indicates that the appellant was not eligible for ConnectorCare or any Advanced Premium Tax Credits for the tax year 2021. Consequently, the appellant was unable to secure an affordable insurance option through the Health Connector.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$82,212.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$548.08 per month; according to Table 4, Appellant, who was 59 years old in 2021, lived in Essex County and filed she 2021 Massachusetts taxes as a Married filing jointly with 0 dependents, would have had to pay \$802.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

### Other Government-Sponsored Healthcare Programs

# **CONNECTOR APPEALS UNIT**



There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## **Conclusion**

Upon careful examination of the appellant's circumstances, it is evident that she lacked access to affordable health insurance options. Her employer did not provide her with health insurance, and her income level, exceeding 400% of the federal poverty line, rendered her ineligible for Connector Care or Advanced Premium Tax Credits. Additionally, the cost of private insurance, as previously detailed, was prohibitively high.

In light of these factors, and considering the absence of any available private, public, or other affordable insurance options, the appellant's tax penalty is hereby waived. See Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2021 appeal. She should not assume that a similar determination will be made in the future should she 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 2021.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue:    Appeal of the 2021 Tax Year Penalty

Hearing Date:    June 6, 2023

Decision Date: Tuesday, June 27, 2023

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### 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 June 6, 2023. 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 the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Pay Stubs from Appellant's employer, on OnBrand 24, Inc.	three (3) pages

# CONNECTOR APPEALS UNIT



Exhibit 4 Shut off notice from National Grid, dated April 19, 2022 1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old in 2021. Appellant filed her 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$27,674.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 145% of the Federal Poverty level and based on her income, if all other conditions were met, Appellant would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Customer Service Representative and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. The Appellant was offered health insurance in 2021, by her employer, at an approximate monthly cost of \$165.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of June of 2023, through a new employer. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$27,674.00 was deemed able to pay \$0.00 per month for health insurance, or 0% of her income. According to Table 4, Appellant, age 31 and living in Essex County, could have purchased private insurance for \$286.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).

# CONNECTOR APPEALS UNIT



11. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$1,400.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$18.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$85.00	<u>Food</u>	\$300.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$200.00	<u>Cell Phone</u>	\$108.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$200.00	<u>Household &amp; Toiletries</u>	\$25.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$25.00	<u>Total:</u>	\$2,361.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$2,306.17. Her necessary expenses were determined to be \$2,361.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$430.30 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2021. However, Appellant did receive any shut-off notices for basic utilities (Testimony of Appellant).

# CONNECTOR APPEALS UNIT



## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had no health insurance in 2021. Appellant has been assessed a tax penalty for 12 months. Appellant appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2021, by her employer, at an approximate monthly cost of \$165.00. (Appellant’s Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets

## CONNECTOR APPEALS UNIT



minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by her employer was \$165.00 a month. An employer sponsored plan's coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$219.09 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent Appellant-employee's projected household modified adjusted gross income. The employer's offering was 7.15% of the employee's income.

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant had access to affordable healthcare coverage through their employer, they were not eligible for ConnectorCare.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$27,674.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$0.00 per month; according to Table 4, Appellant, who was 31 years old in 2021, lived in Essex County and filed her 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$286.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,306.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$0.00 per month), private health insurance with a premium of \$286.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

# CONNECTOR APPEALS UNIT



There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$2,361.00. Those expenses were less than her regular approximate monthly net income of approximately \$1,930.70, thereby making a private health insurance premium of \$165.00/month unmanageable. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$430.30. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure of \$165.00 each month for health insurance, especially when covering necessary expenses is already a struggle.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2021 appeal. Appellant should not assume that a similar determination will be made in the future should Appellant 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 2021.

## **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



## **CONNECTOR APPEALS UNIT**



complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

Appeal Decision:    **X**    **Penalty Overturned in Full**                     **Penalty**  
   **Penalty Overturned in Part**

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: August 15, 2023

Decision Date: Friday, August 25, 2023

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### 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 August 15, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3  | Correspondence from the Appellant           | 1 page  |

# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$45,284.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 333% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ineligible for ConnectorCare based on his income, but may have been eligible for Advanced Premium Tax Credits.
4. In 2022, the Appellant was initially employed in a Full Time capacity as a Landscaper at a Landscaping Company. (Appellant's Testimony). However, the Appellant experienced a period of unemployment during 2022 and was only employed in this position from March through November. (Appellant's Testimony).
5. Appellant was offered health insurance by his employer, but deemed it too expensive to purchase. (Appellant's Testimony). Appellant stated he had a conversation with his employer in August of 2022 and his employer offered him health insurance coverage at a cost of around \$500 per month.
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$45,284.00 was deemed able to pay \$281.14 per month for health insurance, or 7.45% of his income. According to Table 4, Appellant, age 27 and living in Middlesex County, could have purchased private insurance for \$277.00 per month.
8. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
9. In 2022, Appellant had the following monthly expenses for basic necessities:

Rent or                \$900.00    Car                        \$90.00    Medical/Dental    \$0.00

# CONNECTOR APPEALS UNIT



<u>Mortgage</u>		<u>Insurance</u>			
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$120.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$30.00	<u>Food</u>	\$320.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$62.50	<u>Cell Phone</u>	\$86.50	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$125.00	<u>Household &amp; Toiletries</u>	\$50.00		
<u>Car</u>	\$268.00	<u>Clothing</u>	\$30.00	<u>Total:</u>	\$2,082.00

10. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,773.67. His necessary expenses were determined to be \$2,082.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,027.07 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
11. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, 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 fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The appellant indicated that if he was forced to buy health insurance, given his income, he would've not been able to afford his other necessary expenses. (Appellant's Testimony).

# CONNECTOR APPEALS UNIT



## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Appellant was offered health insurance by his employer. The Appellant testified that they experienced periods of unemployment during the year 2022, and were employed during the following months: March through November (Appellant’s Testimony).

The Appellant was assessed a penalty of 12 months based on his lack of coverage over 12 months. The penalty appears to have been levied in light of the Appellant’s decision to forgo purchasing health insurance on the private market and from his employer, both during his periods of employment and unemployment during 2022.

In light of the lack of coverage stemming from the Appellant’s unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of

## CONNECTOR APPEALS UNIT



their termination event. A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child), loss of other health coverage, or job loss.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$500.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income.

Appellant was deemed to be able to afford only \$358.50 per month. The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 13.25% of the employee's income.

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). Appellant's Employer-Sponsored Insurance was deemed to be unaffordable and would not block the Appellant from obtaining or applying for ConnectorCare from the Health Connector.

Massachusetts residents may be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Because the Appellant's Income was 333% of the Federal Poverty Level, he is ruled to be **INELIGIBLE** for additional state premium assistance subsidized coverage under ConnectorCare.

## CONNECTOR APPEALS UNIT



In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). In this instances, the Appellant may have been eligible for Advanced Premium Tax Credits if he had applied for Health Insurance via the Health Connector.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$45,284.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$281.14 per month; according to Table 4, Appellant, who was 27 years old in 2022, lived in Middlesex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$3,773.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$281.14 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2021 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the Health Connector with the help of APTCs and the Private Market in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to completely waive their penalty for the months in question.

The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$2,082.00. Those expenses were less than the regular approximate monthly net income of approximately \$3,109.07, thereby making a private health insurance premium of \$277.00/month seemingly manageable. While the approximate

# **CONNECTOR APPEALS UNIT**



difference of \$1,027.07 between monthly income and expenses may not solve all financial concerns, it appears that paying \$277.00/month for health insurance wouldn't cause an undue hardship based on the available information.

## **Conclusion**

The Appellant has failed to demonstrate that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

## **PENALTY ASSESSED**

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

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 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 28, 2023

Decision Date: Friday, December 1, 2023

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### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 28, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page

# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 28 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents. (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022. (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$73,859.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 543% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Machine Operator at a Medical Device Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$88.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of November of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$73,859.00 was deemed able to pay \$492.39 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 28 and living in Middlesex County, could have purchased private insurance for \$277.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

# CONNECTOR APPEALS UNIT



11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,500.00	<u>Car Insurance</u>	\$120.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>House Maintenance</u>	\$84.00
<u>Cable/Internet</u>	\$50.00	<u>Food</u>	\$400.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$115.00	<u>Cell Phone</u>	\$169.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$95.00	<u>Household &amp; Toiletries</u>	\$30.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$42.00	<u>Total:</u>	\$2,865.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$6,154.92. His necessary expenses were determined to be \$2,865.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,982.38 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation. (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2022.

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)

16. The appellant provided testimony that a monthly premium of \$250 for health insurance through the Health Connector, calculated after updating his income details, posed a financial challenge.
17. Furthermore, the appellant anticipated securing health insurance via his employer. Regrettably, due to the expiration of the open enrollment period, his employer could not fulfill this expectation.
18. The Appellant testified that he took no further steps after being notified by his employer that he was ineligible for healthcare coverage to try to reobtain coverage from the Health Connector. (Appellant's Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 2 month(s) in 2022. He has been assessed a tax penalty for 7 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the

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

## Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$88.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 7 months based on their lack of coverage over 10 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$88.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$584.72 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 1.43% of the employee's income.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant had access to affordable healthcare coverage through their employer, they are not eligible for ConnectorCare.

## Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$73,859.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$492.39 per month; according to Table 4, Appellant, who was 28 years

# CONNECTOR APPEALS UNIT



old in 2022, lived in Middlesex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$6,154.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$492.39 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer and the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,865.00. With a monthly difference of \$1,982.38 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$277.00 per month, it appears that affording health insurance was feasible for the Appellant.

## Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 7-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:           7                      Number of Months Assessed:           7

If the number of months assessed is zero (0) because your penalty has been

## **CONNECTOR APPEALS UNIT**



overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 21, 2023

Decision Date: Friday, December 1, 2023

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### 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 21, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page



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Exhibit 4 Photo of Apartment Damage

1 page

Exhibit 5 Pay Stubs from employer, dated 1/23/2022 and 8/28/2022

2 Pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$46,275.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 341% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) through the Health Connector.
4. In 2022, the Appellant was employed as a Barista at Coffee Shop in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does currently have Health Insurance as of November of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$46,275.00 was deemed able to pay \$287.29 per month for health insurance, or 7.45% of his income. According to Table 4, Appellant, age 30 and living in Essex County, could have purchased private insurance for \$277.00 per month.

# CONNECTOR APPEALS UNIT



10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,200.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$100.00	<u>Food</u>	\$660.00	<u>Credit Cards</u>	
<u>Heat</u>	\$110.00	<u>Cell Phone</u>	\$60.00	<u>Other:</u>	
<u>Electricity</u>	\$50.00	<u>Household &amp; Toiletries</u>	\$75.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$2,305.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,856.25. His necessary expenses were determined to be \$2,305.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$864.41 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
  - b. The appellant's form also indicated that during 2022 he incurred a fire, flood, natural disaster or other unexpected natural or human-caused

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



event causing substantial household or personal damage to him.

- i. Upon further inquiry, the appellant admitted that there was an electrical fire at his apartment which caused him to miss a couple of days of work. (Appellant's Testimony).
    - ii. In his own correspondence he determined that this was insignificant and admitted as much during his testimony. (Appellant's Testimony).
  - c. The Appellant also included a third grounds for appeal indicating that during 2022 other circumstances, such as: applying the affordability tables and schedule HC to him would have been inequitable. (Appellant's Testimony).
14. Appellant did allege that he incurred significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
- a. However, it was later clarified by the appellant that he did not in fact incur significant increases in his essential expenses or suffer significant losses. (Appellant's Testimony).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. During the administrative appeal hearing, the appellant candidly acknowledged that the attempt to secure health insurance for 2022 commenced in March of 2022, which was beyond the designated open enrollment period.
17. The appellant further stated that difficulties were encountered when trying to access the online account with the Massachusetts Health Connector, citing an inability to log in. Personal time constraints were mentioned as a significant barrier to pursuing alternative methods of application, such as telephonic communication or in-person visits to the Health Connector's offices.
18. The appellant also admitted to not exploring the private insurance market for potential health coverage, despite being aware of the legal requirement under the individual mandate.
19. The appellant further testified that in 2023, still mystified by the application process presented by the Health Connector, he engaged with a local community health center in Salem Massachusetts who assisted him in successfully applying

# CONNECTOR APPEALS UNIT



for health insurance for the upcoming tax year.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will

## CONNECTOR APPEALS UNIT



find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting a tax credit to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). In this instance I find that the Appellant wasn't offered health insurance by his employer.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant may be eligible for Advance Premium Tax Credits (APTCs), but based on his income, he wouldn't have been eligible for ConnectorCare. APTCs are federal tax credits used immediately to lower monthly health plan premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)).

Based on these rules, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since their income is between 300% and 400% of the Federal Poverty Level, and he did not have access to affordable employer health coverage.

In this appeal, the appellant argued that the costs of available health insurance plans were prohibitively expensive, making the application of the standard affordability tables to his case inequitable. However, this claim is not substantiated by documentary evidence, and the appellant's testimony on this matter lacks specificity.

The appellant maintains that interactions with the Health Connector and the unified application process revealed excessively high costs. Yet, these claims were presented without concrete details. Notably, during his testimony, the appellant acknowledged that he did not complete the application process. As a result, he was unable to provide a precise figure for the health insurance premiums that would be charged by the Health Connector. This lack of completion and specific information undermines the credibility of his assertion regarding the unaffordability of the health insurance plans.

Such omissions undermine the credibility of the appellant's claim, especially in light of

## CONNECTOR APPEALS UNIT



publicly accessible information on the Health Connector's website. The website explicitly outlines the lowest-cost plans available based on an individual's income in relation to the Federal Poverty Level (FPL). For example, the lowest monthly premiums for ConnectorCare plans range from \$0 to \$134 depending on one's FPL percentage.

The appellant's vague statements about facing 'Unknown' in costs appear inconsistent with these published figures. In the absence of corroborating evidence, which the appellant failed to provide, the claim that the health insurance costs were unmanageable does not hold up under scrutiny.

### Appellant's Engagement with the Health Connector

The Appellant testified they applied through the Health Connector outside of the open enrollment period. In such cases, Massachusetts residents may qualify for a Special Enrollment Period (SEP) due to certain specific life events or loss of coverage. In cases where eligibility for a Special Enrollment Period (SEP) is not met, it is incumbent upon individuals to petition for a waiver from the Office of Patient Protection (OPP), an entity that provides guidance through the intricacies of enrollment.

The procedures for obtaining a SEP or an OPP waiver are clearly delineated and readily accessible on the Health Connector's website, serving as a vital resource for ensuring compliance with health insurance enrollment mandates. These are also steps that should be sought before any appeal.

A lack of supporting documentation notably hampers the Appellant's ability to substantiate their claims, and appears indicative of insufficient engagement with the Health Connector's application or waiver process.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$46,275.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$287.29 per month; according to Table 4, Appellant, who was 30 years old in 2022, lived in Essex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$3,856.25 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$287.29 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

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## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,305.00. With a monthly difference of \$864.42 between income and expenses, and considering private market insurance would have cost him \$277 per month, it appears that affording a healthcare plan should have been manageable for the Appellant.

## Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 12-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:           12

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 2022.

## **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

## **CONNECTOR APPEALS UNIT**



Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 21, 2023

Decision Date: Friday, December 1, 2023

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### 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 21, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

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Exhibit 3	Correspondence from the Appellant	2 Pages
Exhibit 4	Fax from the Appellant, dated 11/3/2023	5 pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 29 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$66,325.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 488% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on his income for ConnectorCare.
4. In 2022, the Appellant was employed as a Warehouse Coordinator at a Plumbing Company in a full-time capacity. (Appellant's Testimony) Later in 2022, the Appellant obtained a second position as a Installer at an HVAC Company, starting in April of 2022 and continuing through the end of the year.
5. The Appellant was employed for the full year and did not have any months of job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his second employer, The HVAC Company, at an approximate monthly cost of \$660.00. (Appellant's Testimony). It was during this time that the Appellant was penalized for not having health care coverage.
7. The Appellant does currently have Health Insurance as of November of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$66,325.00 was deemed able to

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pay \$442.17 per month for health insurance, or 0.08 of his income. According to Table 4, Appellant, age 29 and living in Norfolk County, could have purchased private insurance for \$277.00 per month.

10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$760.00	<u>Car Insurance</u>	\$120.00	<u>Medical/Dental</u>	\$100.00
<u>Property Taxes</u>	\$625.00	<u>Gas (Car)</u>	\$200.00	<u>House Maintenance</u>	\$166.66
<u>Cable/Internet</u>	\$250.00	<u>Food</u>	\$660.00	<u>Credit Cards</u>	
<u>Heat</u>	\$240.00	<u>Cell Phone</u>	\$65.00	<u>Other:</u>	
<u>Electricity</u>	\$100.00	<u>Household &amp; Toiletries</u>	\$200.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$200.00	<u>Total:</u>	\$3,686.66

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$5,527.08. His necessary expenses were determined to be \$3,686.66 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,069.97 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The appellant disclosed that upon commencing a new job in April 2022, there was a mandatory 90-day waiting period before eligibility for the company's health insurance plan (as per the Appellant's Testimony). When eligible to enroll, the appellant found the cost of the new insurance prohibitive and consequently chose not to opt for it. (Appellant's Testimony).
17. Subsequent to this decision, the appellant acknowledged that they did not engage in further efforts to contact the Health Connector or explore alternative insurance options. This lack of action following the initial decision not to enroll in the company-provided insurance is a notable aspect of the appellant's situation.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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

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956 CMR 6.00, which interprets the 63-day gap in coverage to be for 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 had no health insurance in 2022. He has been assessed a tax penalty for 4 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his second employer, the HVAC company at an approximate monthly cost of \$660.00. (Appellant's Testimony). It was during his stint with his new employer, between April of 2022 and the end of the year, that the Appellant was assessed a tax penalty.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$660.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$525.07 per month. The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 11.94% of the employee's income.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost.

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See 26 CFR § 1.36B-2(c)(3). The Appellant's employer's health coverage is not considered affordable as it exceeds 9.5% of the Appellant's household income, specifically being 11.94% of the Appellant's income. Based on this, the Appellant may be eligible for ConnectorCare plans.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program due to his income being more than 300% of the FPL.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$66,325.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$442.17 per month; according to Table 4, Appellant, who was 29 years old in 2022, lived in Norfolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,527.08 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$442.17 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial

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hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,686.66. With a monthly difference of \$1,069.97 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$277.00 per month, it appears that affording health insurance was feasible for the Appellant.

## Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 4-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:        4                      Number of Months Assessed:        4

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 2022.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 20, 2023   Decision Date: Wednesday, December 27, 2023

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### 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, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

### FINDINGS OF FACT



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The record shows, and I so find:

1. Appellant was 42 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$53,621.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 395% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Delivery Person at Major Delivery Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$352.00. (Appellant's Testimony)
7. The Appellant does not currently have Health Insurance as of December of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$53,621.00 was deemed able to pay \$357.47 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 42 and living in Worcester County, could have purchased private insurance for \$318.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were

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<u>Rent or Mortgage</u>	\$800.00	<u>Car Insurance</u>	\$134.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$60.00	<u>Food</u>	\$310.00	<u>Credit Cards</u>	
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$33.00	<u>Other:</u>	
<u>Electricity</u>	\$100.00	<u>Household &amp; Toiletries</u>	\$30.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$1,743.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,468.42. His necessary expenses were determined to be \$1,743.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,873.24 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant).
  - b. The appellant didn't actually fill this out in a statement of grounds for his appeal, however this information was derived from the appellant during his testimony. (Appellant's Testimony).
- 14.Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

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normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. In the appeal, the appellant expressed his view that the health insurance offered by his employer was too costly, leading to his decision not to purchase it. (Appellant's Testimony).
17. Although aware of the mandatory requirement for health insurance, the appellant did not pursue alternative options, such as obtaining coverage through the Health Connector, after declining his employer's insurance plan. (Appellant's Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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## Appellant's Employment & Employer-Sponsored Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$352.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$352.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2022, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income. According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 7.88% of the employee's income.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer's health coverage is deemed affordable, he is not eligible for ConnectorCare.

## Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted.

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## Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$53,621.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$357.47 per month; according to Table 4, Appellant, who was 42 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$318.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,468.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$357.47 per month), the Appellant could have afforded private health insurance with a premium of \$318.00 per month. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer, the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,743.00. With a monthly difference of \$1,873.24 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$318.00 per month, it appears that affording health insurance was feasible for the Appellant.

## Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 12-month penalty is upheld.

## **PENALTY ASSESSED**

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

## **CONNECTOR APPEALS UNIT**



If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

FINAL APPEAL DECISION: PA 22-1265

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

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 25, 2024

**Decision Date:** January 30, 2024

**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 25, 2024. 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 2022 Signed by Appellant on 5/17/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal on 5/17/2023	(2 PP).
Exhibit 2(b):	Appellant's Health Insurance Card	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 12/12/2023	(2 PP).

The record shows, and I so find:

1. Appellant, single filing filed a 2022 Massachusetts tax return filed with a family size of 1, was age 52 a in 2022, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2022 was \$65,088. (Exhibit 1).
3. Appellant testified he moved back to Massachusetts in March 2022 for a job that began in April 2022. (Appellant Testimony, Exhibit 2(a)).

4. Appellant testified part of his employment offer was Employer health insurance (“ESI”) but was then told he had to wait six (6) months to enroll. (Appellant Testimony, Exhibit 2(a)).
5. Appellant testified that when he attempted to obtain ESI in September, he was told there was a three (3) month waiting period and he could not enroll until May 1, 2023, which he did. (Appellant Testimony, Exhibit 2(a), (b)).
6. I give limited weight to the adduced statement that the Appellant attempted to obtain insurance through Connectorcare but was unable because he had previously had an account, and as such was not sure if he was insured. (Appellant Testimony, Exhibit 2(a)).
7. According to Table 3 Appellant could have afforded \$433.92 per month for health insurance in 2022. According to Table 4 Appellant could have purchased an individual plan insurance for \$422.00 per month. (See Tables 3 and 4 of Schedule HC 2022).
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income was more than 300% of the poverty level, which was \$38,640.00 for a family of (1). (See Table 2 of Schedule HC 2022).
9. The Appellant referenced that a penalty “would be a lot” for him. (Exhibit 2(a)).
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for six (6) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because Other: he had purchased health insurance that her didn’t reside in Massachusetts during his period of uninsurance and he adduced evidence regarding other circumstances. (Exhibits 2(a)-(c), and Appellant Testimony).

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 2022, \$65,088 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a family of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$433.92 per month. According to Table 4, Appellant, age 51 in Suffolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$422 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that ESI was not offered by his Employer until May, 2023. (Appellant Testimony). 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 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 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 was not eligible for ESI until May, 2023(Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, I find credible that the Appellant was not able to obtain ESI until May 2023, and limited weight to his misunderstanding regarding not obtaining Connectcare when he had previously had it. However, where the Appellant is now insured and in order to mitigate the harshness of a full penalty, I find that the mandate has not been lost on the Appellant as he did pay for health insurance, although it was non complaint. Therefore, it is concluded that the Appellant's request for a waiver from the penalty is **approved in part**.

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   6                        Number of Months Assessed:   1  

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 26, 2024      Decision Date: Wednesday, January 31, 2024

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### 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 26, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

# CONNECTOR APPEALS UNIT



Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	News Article from the Lowell Sun	2 pages
Exhibit 5	Utility Bill, via Email, dated 5/6/2022	2 pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 42 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$109,151.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 803% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was initially employed as a Health Insurance Clerk at a Health Insurance Company in a full-time capacity. (Appellant's Testimony).
5. However, the Appellant experienced a period of unemployment during 2022 and was only employed in this position from January-April. (Appellant's Testimony)
6. Later in 2022, the Appellant obtained a second position as a Customer Service Associate at WalMart (3 weeks) and then a Temp Job at Sushi Manufacturing facility (2 weeks).
7. The Appellant was offered health insurance in 2022, by his employer, at an unknown amount. (Appellant's Testimony)
8. The Appellant does currently have Health Insurance as of January of 2024. (Appellant's Testimony).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. According to Table 3 of Schedule HC for 2022, The Appellant has no

# CONNECTOR APPEALS UNIT



dependents, with an adjusted gross income of \$109,151.00 was deemed able to pay \$727.67 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 42 and living in Middlesex County, could have purchased private insurance for \$318.00 per month.

11. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
12. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,100.00	<u>Car Insurance</u>	\$130.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$132.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$100.00	<u>Food</u>	\$50.00		
<u>Heat</u>	\$150.00	<u>Cell Phone</u>	\$40.00	<u>Other:</u>	\$420.00
<u>Electricity</u>	\$200.00	<u>Household &amp; Toiletries</u>	\$100.00	<u>Car</u>	\$0.00
<u>Child Care Costs</u>	\$0.00	<u>Car Insurance</u>	\$130.00	<u>Clothing</u>	\$25.00
				<u>Total:</u>	\$2,614.00

13. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$9,095.92. His necessary expenses were determined to be \$2,614.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$4,342.35 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
14. Appellant's statement of grounds for appeal was on the basis of:

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

- a. The Appellant indicated two specific reasons for his appeal.
  - i. During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or receive an eviction or foreclosure notice; and
  - ii. During 2022, you incurred a fire, flood, natural disaster, or other unexpected, natural or human caused event, causing substantial household or personal damage to or for you. (Testimony of Appellant, Exhibit 2).
15. Appellant alleged that they did incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
  - a. The Appellant provided credible evidence that his apartment sustained a fire in June of 2022. (Appellant's Testimony, Exhibit 3).
  - b. The Appellant testified that after the fire, he was able to immediately stay with family and did so for two (2) months prior to finding a new apartment. (Appellant's Testimony).
  - c. The Appellant also testified that he did not have renters insurance at the time of the fire and was forced to repurchase a majority of his personal items, which he indicated cost him around five thousand dollars. (Appellant's Testimony).
    - i. These expenses were considered in the breakdown provided above, under "Other."
16. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
17. The Appellant testified that he faced significant financial challenges in 2022, which impacted his ability to maintain health insurance coverage. In June 2022, a fire at his residence resulted in the loss of essential items, including clothing, furniture, and computer equipment. (Appellant's Testimony).
18. The necessity to replace these items placed a substantial financial burden on the Appellant, making the cost of health insurance prohibitively expensive. Furthermore, the Appellant experienced employment difficulties during this period. (Appellant's Testimony).

## CONNECTOR APPEALS UNIT



19. In April 2022, he was laid off from his primary job at a Health Insurance company. The consequent job search proved challenging, and he remained unemployed for the remainder of the year, but for two (2) short lived temporary jobs. (Appellant's Testimony).
20. This loss of steady income compelled the Appellant to withdraw funds from his retirement savings to meet his living expenses. These combined circumstances, as detailed in the Appellant's testimony, significantly strained his financial resources, hindering his ability to afford health insurance in 2022.
21. The Appellant has been assessed a penalty for not having health insurance in 2022 for 5 months.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 4 month(s) in 2022. He has been assessed a tax penalty for 5 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

# CONNECTOR APPEALS UNIT



## Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an unspecified amount per month. (Appellant's Testimony). The Appellant testified that they experienced periods of unemployment during the year 2022, and were employed during the following months: January-April (Appellant's Testimony). Because he was terminated and because he had coverage for 4 months, it appears that the employer did in fact offer him appropriate health care coverage which he took advantage of, and that the penalty being levied by the health connector is being done so in light of his unemployment.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

It appears the Appellant was unemployed during the time the penalty was assessed, and as such, Employer-Sponsored Insurance was unavailable and would not block the Appellant from trying to sign up for Health Insurance from the Health Connector. The Appellant may be eligible for a Special Enrollment Period (SEP) due to his loss of coverage from his loss of Employer-Sponsored Insurance at the time of his job loss.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them



# CONNECTOR APPEALS UNIT



for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

## Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted.

## Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$109,151.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$727.67 per month; according to Table 4, Appellant, who was 42 years old in 2022, lived in Middlesex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$318.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$9,095.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$727.67 per month), the Appellant could have afforded private health insurance with a premium of \$318.00 per month. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,614.00. With a monthly difference of \$4,342.35 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$318.00 per month, it appears that affording health insurance was or should have been feasible for the Appellant.

# CONNECTOR APPEALS UNIT



## Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 5-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:           5                   Number of Months Assessed:           5

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 2022.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## **FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024      Decision Date: Tuesday, February 27, 2024

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### **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 21, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. (Exhibit 1).
2. The Appellant has no dependents (Exhibit 1).
3. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
4. Appellant's Federal Adjusted Gross Income for 2022 was \$27,304.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 201% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
5. In 2022, the Appellant was employed as an Intern at a Golf Course (April to August) in a full-time capacity. (Appellant's Testimony).
6. The Appellant lived in the state of Massachusetts from April of 2022 through November of 2022. (Appellant's Testimony).
7. Appellant was not offered health insurance by his employer.
8. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$27,304.00 was deemed able to pay \$95.56 per month for health insurance, or 4.20% of his income. According to Table 4, Appellant, age 26 and living in Worcester County, could have purchased private insurance for \$277.00 per month.
11. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

# CONNECTOR APPEALS UNIT



12. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$950.00	<u>Car Insurance</u>	\$150.00	<u>Medical/Dental</u>	\$23.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$88.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$40.00	<u>Food</u>	\$264.00	<u>Other</u>	\$20.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$40.00		
<u>Electricity</u>	\$80.00	<u>Household &amp; Toiletries</u>	\$65.00		
				<u>Total:</u>	\$1,720.00

13. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,275.33. His necessary expenses were determined to be \$1,720.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$185.11 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

14. Appellant's statement of grounds for appeal was on the basis of:

a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

15. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

16. Appellant did not fall more than thirty days behind in rent payments in 2022.

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)

17. In the appeal, the Appellant conveyed that the monthly cost for Health Insurance through the Health Connector was beyond his financial means.
18. The Appellant has been assessed a penalty for not having health insurance in 2022 for 4 months.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He lived in Massachusetts between April and November in 2022. (Appellant’s Testimony). He has been assessed a tax penalty for 4 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

#### Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was

## CONNECTOR APPEALS UNIT



assessed a penalty of 4 months based on their lack of coverage over 12 months.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.20%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable. Because the appellant was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance, also known as Connector Care.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3A in tax year 2022..

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2022, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 200.91% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an

## CONNECTOR APPEALS UNIT



adjusted gross income of \$27,304.00, was deemed unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$95.56 per month; according to Table 4, Appellant, who was 26 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,275.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$95.56 per month), private health insurance with a premium of \$277.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since the Appellant is eligible for Plan Type 3A in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,720.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$185.11. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

### Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 4 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

**PENALTY ASSESSED**



# **CONNECTOR APPEALS UNIT**



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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

## **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

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024    Decision Date: Tuesday, February 27, 2024

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## 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 21, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3  | Correspondence from the Appellant           | 2 Pages |

# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 59 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$26,331.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 194% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 2B (150.1-200% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Business Owner at a Landscaping Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer, as he was self employed in 2022.
7. The Appellant does currently have Health Insurance via the Health Connector. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$26,331.00 was deemed able to pay \$92.16 per month for health insurance, or 4.20% of his income. According to Table 4, Appellant, age 59 and living in Norfolk County, could have purchased private insurance for \$435.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

# CONNECTOR APPEALS UNIT



11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$0.00	<u>Car Insurance</u>	\$120.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$600.00	<u>Gas (Car)</u>	\$160.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$50.00	<u>Food</u>	\$396.00	<u>Car</u>	\$0.00
<u>Heat</u>	\$110.00	<u>Cell Phone</u>	\$50.00	<u>Clothing</u>	\$40.00
<u>Electricity</u>	\$112.00	<u>Household &amp; Toiletries</u>	\$30.00	<u>Other</u>	\$120.00
				<u>Total:</u>	\$1,788.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,194.25. His necessary expenses were determined to be \$1,788.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$49.81 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. In the appeal, the Appellant conveyed that the monthly cost for Health Insurance through the Health Connector was beyond his financial means in 2022.
17. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

#### Appellant’s Employment & Employer Based Insurance

## CONNECTOR APPEALS UNIT



Appellant was not offered health insurance by his employer. For the purposes of this Appeal, I will find such coverage was unavailable. Because the appellant was not offered health insurance by his employer, he would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 2B in tax year 2022..

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2022, the Appellant would qualify for Plan Type 2B through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 2B is \$47. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

### Appellant's Engagement with the Health Connector

The Appellant testified to applying for health coverage during the open enrollment period. A lack of supporting documentation notably hampers the Appellant's ability to substantiate their claims and appears indicative of insufficient engagement with the Health Connector's processes.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$26,331.00, was deemed unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$92.16 per month; according to Table 4, Appellant, who was 59 years old in 2022, lived in Norfolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$435.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

# CONNECTOR APPEALS UNIT



Considering the Appellant's gross income (\$2,194.25 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$92.16 per month), private health insurance with a premium of \$435.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since the Appellant is eligible for ELIGIBLE for Plan Type 2B in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,788.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$49.81. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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 2022.

# **CONNECTOR APPEALS UNIT**



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

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

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



FINAL APPEAL DECISION: PA22-1439

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

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 20, 2024

**Decision Date:** February 28, 2024

**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 20, 2024. 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 2022 Signed by Appellant on 6/9/2023.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 6/5/2023.	(1 P).
Exhibit 2(b):	Email from Employer regarding Plan Benefits w/ summary of benefits.	(9 PP).
Exhibit 2(c):	Summary of Income and Expenses	(1 P).
Exhibit 2(d):	Copy of 2022 W2	(1 P).
Exhibit 2(e):	Copy of the Appellant's Lease	(2 PP).
Exhibit 2(f):	Copy of Phone, Internet, and Utility (Gas and Electric) Invoices	(5 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed a 2022 Massachusetts tax return, was single had 0 dependents in 2022, lived in Middlesex County, and had a family size of 1. (Exhibit 1).
2. The Appellant testified her Employer was based in North Carolina and had Employer Sponsored Insurance (ESI) since 2019 and was covered under the Blue Cross/Blue Sheild No. Carolina. (Appellant Testimony, Exhibit 2(b)).
3. The Appellant was enrolled in a non-minimal credible coverage ESI 2022 and paid approximately \$154.24 per month. (Exhibits 1 and 2(a)-(c), Testimony of Appellant).
4. The Appellant credibly testified that she did not realize the plan did not meet the meet minimal credible coverage ("MCC") standards for Massachusetts residents. (Testimony of Appellant, Exhibit 2(a)-(c)).
5. The Appellant testified the plan meets the necessary federal minimum creditable coverage requirements, but not the Massachusetts MCC. (Testimony of Appellant, Exhibits 2(a)-(b)).

6. The Appellant's Federal Adjusted Gross Income for 2022 was \$32,444. (Exhibit 1).
7. The Appellant has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
8. According to Table 3, the Appellant could have afforded \$135.18 per month for health insurance in 2022. According to Table 4, the Appellant could have purchased insurance for \$318 per month.
9. The Appellant's monthly living expenses in 2022 included: Rent \$2,247, Utilities: \$265, Food \$500, Car and Rental Insurance \$154, Gas/Transportation \$50, Credit Card \$500, Cell Phone: \$61, Internet: \$95, totaling \$3,872. (Appellant's Testimony).
10. The Appellant's net take home pay was approximately \$2,164. (Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with her appeal that during 2022: she had health insurance that didn't meet minimum creditable coverage standards because that is what the employer offered, and her circumstances prevented her from buying other insurance that met the requirements. (Exhibit 2). The Appellant adduced evidence at the hearing and submitted a statement of grounds for appeal that during 2022 that the individual mandate did not apply to her because the expense of purchasing health insurance during 2022 would have caused her a deprivation of food and other necessities, and that she was homeless or received an eviction notice. (Exhibits 2, 2(a)-(f) and Appellants' Testimony).

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 2022, \$32,444 was less than 300% of the federal poverty level, which for 2022 was \$ 38,640 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$135.18 per month. According to Table 4, the Appellant, age 41, and with 0 dependents and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$318.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

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 her employer, but that same did not meet minimal credible coverage. (Appellant’s Testimony).. 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 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$32,444 in 2022 and the ESI premium was \$ 154.24, less than 9.61%(or \$259.82) of the employees MAGI. 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 that if this issue has continued in 2023, she will have the same penalty issues and they should be addressed with the Employer, and she should purchase MCC compliant insurance.

Based upon the facts summarized above, I find that where the Appellant did not know that she had ESI that did not meet minimum creditable coverage offered by her employer, and the coverage was federal but not Massachusetts MCC compliant, but she was insured, her circumstances prevented her from buying other insurance that met the requirements, she is not subject to a penalty within the meaning of 956 CMR 6.08 (2) and (3).

Notwithstanding the above, the Appellant’s adjusted gross income was \$32, 444, and her monthly approximate take home pay was\$2,164(Par. No. 10 above). Her monthly living expenses totaled \$3,872 (Appellant’s Testimony, see Pars. 9 and 10 above). Accordingly, I conclude that purchasing health insurance at the cost of \$135.18 in addition to her basic necessary living expenses during 2022, would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) ( e) & (3). Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**. 956 CMR 6.08 (1), (a), (e) & (3). Thus, the Appellant’s assessed tax penalty of twelve (12) months is waived entirely for this reason.

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

Appellant should note that any waiver granted here is for 2022 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.

**However, Appellant was advised and should note that any waiver granted here is only for 2022 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc:     Connector Appeals Unit                                      Hearing Officer

**ADDENDUM**

If the Appellant still does not have health insurance, and if his income and employment have not changed, she is advised to investigate her 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.

# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 17, 2023      Decision Date: Wednesday, December 27, 2023

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### 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 17, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	1 page
Exhibit 3	Correspondence from the Appellant	3 pages

# CONNECTOR APPEALS UNIT



Exhibit 4 Multiple bills (Town of Danvers, Verizon, National Grid, Acura, Mortgage payment history, Oil Purchase Receipts, etc) 12 Pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old in the beginning of 2021. Appellant filed her 2021 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$61,988.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 481% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. In 2021, the Appellant was employed as a Medical Billing Specialist in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. The Appellant was offered health insurance in 2021, by her employer, at an approximate monthly cost of \$700. (Appellant's Testimony).
7. The Appellant currently does not currently have health Insurance. The Appellant has not had insurance since 2018. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$61,988.00 was deemed able to pay \$413.25 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 56 and living in Essex County, could have purchased private insurance for \$401.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC

# CONNECTOR APPEALS UNIT



for 2021).

11. In 2021, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,800	<u>Car Insurance</u>	\$190.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$120.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$170.00	<u>Food</u>	\$250.00	<u>Credit Cards</u>	\$250.00
<u>Heat</u>	\$29.17	<u>Cell Phone</u>	\$100	<u>Other:</u>	
<u>Electricity</u>	\$100	<u>Household &amp; Toiletries</u>	\$200		
<u>Car</u>	\$450.00	<u>Clothing</u>	\$12.00	<u>Total:</u>	\$3,754.50

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$5,165.67. Her necessary expenses were determined to be \$3,754.50 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$370.73 in her monthly financial situation when considering filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



other natural or man-made disaster in 2021 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant presented testimony indicating that the monthly premium of \$500 for health insurance from the Health Connector was too financially burdensome.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had no health insurance in 2021. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

#### Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2021, by her employer, at an



## CONNECTOR APPEALS UNIT



approximate monthly cost of \$700. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2021 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on her income range and filing status, is 8.00%. The employer's offering was 13.55% of the employee's income. According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be unaffordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant's employer's health coverage is not considered affordable as it exceeds 8.00% of the Appellant's household income, specifically being 13.55%% of the Appellant's income. Based on this, the Appellant would not be blocked in applying for any ConnectorCare plans based on the coverage their employer offered.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2021, the Appellant is ineligible for insurance through the ConnectorCare program specifically based on her income.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

### Availability of Private Insurance

## CONNECTOR APPEALS UNIT



Private insurance was AFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$61,988.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$413.25 per month; according to Table 4, Appellant, who was 56 years old in 2021, lived in Essex County and filed her 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$401.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,165.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$413.25 per month), the Appellant could have afforded private health insurance with a premium of \$401.00 per month. (2021 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,754.50. It's clearly challenging to manage a deficit, which is what would result if the Appellant was asked to pay \$401 per month for private market insurance, when the monthly difference between income and expenses is \$370.73. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

### Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2021 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

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## 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 2021.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 17, 2023      Decision Date: Thursday, December 28, 2023

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**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 17, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 pages |
| Exhibit 3: | Correspondence from the Appellant           | 1 Page  |

# CONNECTOR APPEALS UNIT



Exhibit 4 Aetna Health Insurance Card (Effective Date 1/1/2021) 1 Page

Exhibit 5 Randstad Confirmation of Elections (Dated 11/12/2020) 1 Page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in 2021. She filed her 2021 Massachusetts tax return as a single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$34,412 (Exhibit 1), or around \$17.00 per hour (Appellant's Testimony).
4. Appellant's Income was 267.17% of the Federal Poverty level and based on her income, if all other conditions were met, she would be eligible for subsidized coverage from ConnectorCare via the Health Connector. Specifically, she would be eligible for a ConnectorCare Plan Type 3B, which is available for individuals or families whose income falls between 250% and 300% of the Federal Poverty Level.
5. The Appellant was employed in 2021, as an Assembly Worker and in a Full Time capacity. (Appellant's Testimony). In November of 2020, Appellant went from being employed as a contractor/trainee to a full time employee. (Appellant's Testimony).
6. The Appellant was offered health insurance by her employer in 2020 at an unspecified cost. (Appellant's Testimony). Per the Appellant's testimony, she did not recall the specific cost of the insurance and was unable to provide information relating to the affordability of the plan. (Appellant's Testimony).
7. The Appellant applied for employer sponsored healthcare coverage in 2020. (Appellant's Testimony, Exhibits 3, 4, 5).
8. The Appellant credibly testified that she believed she was enrolled in affordable Employer-Sponsored Insurance which met minimum creditable coverage standards from her employer in both 2020 and 2021. (Appellant's Testimony).
9. The Appellant testified that she discovered in May of 2021, that when she transitioned from being in an contractor role to a permanent full time employee back in November of 2020, her health care coverage did not carry over and she missed the deadline to apply. (Appellant's Testimony).

# CONNECTOR APPEALS UNIT



10. The Appellant reached out to her employer to request an opportunity to apply for health insurance once she realized she did not have such insurance, but was denied that opportunity and received correspondence to that effect. (Appellant's Testimony).
11. Appellant appealed her denial through her employer and her appeal was rejected by her employer. (Appellant's Testimony).
12. Appellant further testified that she was not aware that she was required to have health insurance or face a tax penalty. (Appellant's Testimony). I credit the Appellant's testimony that she was unaware of the tax penalty.
13. The Appellant currently has Health Insurance through her employer. (Appellant's Testimony).
14. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
15. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$34,412 was deemed able to pay 5.00% of her income, or \$143.38 per month for health insurance in order to have that insurance be affordable. According to Table 4, Appellant, age 25 and living in Essex, MA County, could have purchased private insurance for \$263 per month.
16. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
17. In 2021, Appellant, based on her testimony, had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$200	<u>Car Insurance</u>	0	<u>Medical/Dental</u>	0
<u>Property Taxes</u>	0	<u>Gas (Car)</u>	0	<u>House Maintenance</u>	0
<u>Cable/Internet</u>	\$100	<u>Food</u>	0	<u>Credit Cards</u>	0
<u>Heat</u>	0	<u>Cell Phone</u>	0	<u>Other:</u>	\$300

## CONNECTOR APPEALS UNIT



<u>Electricity</u>	o	<u>Household &amp; Toiletries</u>	\$45		
<u>Car</u>	o	<u>Clothing</u>	o	<u>Total:</u>	\$645

18. The Appellant claimed that applying the affordability tables in Schedule HC to her situation would be inequitable. (Testimony of Appellant, Exhibit 2).
19. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
20. Appellant did not fall more than thirty days behind in rent payments in 2021. He did not receive any shut-off notices for basic utilities (Testimony of Appellant).
21. Appellant’s testimony and correspondence (See Exhibit 3) confirm that she believed she had Employer-Sponsored Insurance from her employer. (Appellant’s Testimony). Appellant states that she signed up for Employer-Sponsored Insurance in November of 2020, but was told she lost the Employer-Sponsored Insurance when her position became permanent after her training, sometime at the end of the same month, going into December. See Exhibit 3.
22. Appellant clearly, and reasonably, believed that she had health insurance, providing exhibits which show an effective date of 1/1/2021 through her Employer-Sponsored Insurance provided by Aetna. See Exhibit 4.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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.

## CONNECTOR APPEALS UNIT



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 for 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 had health insurance for 1 month in 2021. She has been assessed a tax penalty for 8 months. She appealed the assessment. See Exhibits listed above. 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 (1) employment, (2) through the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because she experienced a financial hardship as defined in 956 CMR 6.08.

### Private Insurance

Private insurance was NOT AFFORDABLE for the appellant during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$34,412 was deemed not to have been able to afford health insurance on the private market.

According to Table 3, Appellant could have afforded to pay \$143.38 per month; according to Table 4, Appellant, who was 25 years old in 2021, lived in Essex, MA County and filed her 2021 Massachusetts taxes as a single person with 0 dependents, would have had to pay \$263 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

### Employer-Sponsored Insurance

Appellant had limited access to affordable employer-sponsored health insurance in 2021 based on her testimony. (Appellant's Testimony). Though she had health insurance through her employment for a month, she was denied that opportunity to have it for the entire year of 2021 after failing to enroll in employer sponsored coverage in light of her changing employment status with her employer. (Appellant's Testimony). She attempted to sign up, but was denied, due to missing the enrollment period deadline. (Appellant's Testimony).

Appellant argues in her appeal that administrative issues, such as Enrolling in health insurance coverage outside of her company's open enrollment period was the main cause that she wasn't provided an opportunity to gain access to Affordable coverage through her employer. In fact during the appeal, the appellant indicated that affordability specifically relating to her employee sponsored coverage didn't appear to be a concern. (Appellant's Testimony). The appellant provided additional details that



## CONNECTOR APPEALS UNIT



she sought to appeal her employer's decision not to allow her to enroll or provide her with a special enrollment period. (Appellant's Testimony). The appellant testified that the appeal was subsequently denied. (Appellant's Testimony).

Because the appellant's employer barred her from applying in light of her status change, I will find an affordable coverage was not available to her in light of the administrative issues and the interference from her employer as she attempted to, and credibly testified to the effort she took, to enroll an affordable coverage from her employer.

Under 956 CMR 6.08 (3), the Health Connector shall consider any other grounds that an Appellant may claim demonstrates that she could not purchase health insurance that met minimum creditable coverage standards. Under this provision I find that Appellant's employers' interference with the Appellant's efforts to sign up for Employer-Sponsored Insurance stopped her from obtaining affordable coverage that met minimum creditable coverage in 2021.

### Subsidized Coverage through the Health Connector

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B).

Because of her employer's interference, addressed above, I find that the Appellant would have been blocked from obtaining access to ConnectorCare coverage via the Health Connector in light of a finding that the Appellant's Employer-Sponsored Insurance was affordable, based on the Appellant's testimony.

### Other Government Sponsored Health Insurance

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Conclusion

After reviewing the facts of this case, I have decided to grant the Appellant's request for an appeal and waive the tax penalty. Under Massachusetts regulation 956 CMR 6.08 (3), I have the authority to consider other circumstances that would cause an individual to be unable to access affordable health coverage that met minimum standards.

In this case, the Appellant has provided credible evidence that her employer interfered with her ability to enroll in the company's health insurance plan by manipulating her

## **CONNECTOR APPEALS UNIT**



employment status during her initial time with the company and hoisting an unnecessary administrative burden on her, which she was unaware of and which she attempted to comply with when made aware, which prevented her from obtaining affordable Employer-Sponsored Insurance. Due to circumstances completely outside of her control, the Appellant was prevented from obtaining affordable coverage through her job.

Given these unique facts, and in keeping with the regulatory guidance allowing for appeals, I find the Appellant made reasonable efforts to comply with coverage requirements. She should not be penalized for her employer's actions which barred her access. Therefore, I have decided to waive the 8 month tax penalty.

### **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 2021.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 22 years old in 2021. He filed his 2021 Massachusetts tax return as a single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Plymouth County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$29,120.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 152% of the Federal Poverty level and, based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Delivery Driver and in a Full Time capacity. (Appellant's Testimony).
5. Appellant indicated that they were not aware of whether or not his employer offered health insurance to them for the tax year 2021. (Appellant's Testimony)
6. The Appellant does currently have Health Insurance through MassHealth as of February of 2023. (Appellant's Testimony).
7. Appellant's correspondence indicated that he attempted to apply for MassHealth in January of 2021. Appellant testified that he was denied coverage on Masshealth due to his income. Appellant also testified that a portion of his medical bills that year were covered by the Health Safety Net (HSN). Appellant testified that he did not recall whether or not, once his MassHealth Application was denied, if he was then referred to the health connector.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, the Appellant, who has no dependents, with an adjusted gross income of \$29,120.00 was deemed able to pay \$70.37 per month for health insurance. According to Table 4, Appellant, age 22 and living in Plymouth County, could have purchased private insurance for \$263.00 per month.

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- 10. Private insurance was therefore UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
- 11. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$100.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$616.67
<u>Property Taxes</u>		<u>Gas (Car)</u>	\$400.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$400.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>		<u>Cell Phone</u>	\$0.00	<u>Other:</u>	
<u>Electricity</u>	\$0.00	<u>Household &amp; Toiletries</u>	\$200.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$1,766.67

- 12. Based on the appellant’s testimony, his monthly income before taxes was \$2,426.67 per month, while his necessary expenses were \$1,766.67 per month. This would leave approximately \$296.00 left over, after accounting for taxes.
- 13. Appellant’s statement of grounds for appeal was on the basis of:
  - a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
- 14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
- 15. Appellant did not fall more than thirty days behind in rent payments in 2021. He did not receive any shut-off notices for basic utilities (Testimony of Appellant).

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## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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 for 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 had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if this 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Based on the information before me, the Appellant *could (emphasis added)* have been ELIGIBLE for insurance through the ConnectorCare program during 2021. In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B).

Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Qualifying coverage includes any group health plan offered through an employer to

## CONNECTOR APPEALS UNIT



which an applicant has access; coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant had a household modified adjusted gross income of \$29,120.00 in 2021, or \$2,426.67 per month. Under the Federal Affordable Care Act, insurance would have been affordable if it cost \$230.53 per month. In this case, Appellant indicated that he was not aware of whether or not their employer offered health insurance to them for the tax year 2021. (Appellant's Testimony). It's therefore impossible to determine based on the information in front of me whether or not the Appellant had access to affordable employer sponsored healthcare coverage. Regardless it was still the Appellant's responsibility to sign up for healthcare coverage as an Adult over the age of 18 and who resides in Massachusetts per the law.

If the offered employer sponsored healthcare coverage was affordable, Appellant would not be eligible for any advance premium tax credit. This would also make him also ineligible for ConnectorCare. See Exhibit 1 and the testimony of the appellant which I find credible. See also cites above.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$29,120.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$70.37 per month; according to Table 4, Appellant, who was 22 years old in 2021, lived in Plymouth County and filed his 2021 Massachusetts taxes as a single person with 0 dependents, would have had to pay \$263.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

*If (emphasis added)* the coverage offered via the Appellant's employer was UNAFFORDABLE, the next step is to see if Appellant was eligible for ConnectorCare based on his income level as it compares to the Federal Poverty Level. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Because the Appellant's Income was 152% of the Federal Poverty Level, he *may have (emphasis added)* been ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

# CONNECTOR APPEALS UNIT



## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program. Appellant testified that he had applied for MassHealth and was denied in 2021. I credit his testimony in that regard.

## Financial Hardship Analysis

Because it appears that the Appellant could have had access to either affordable coverage from his employer or ConnectorCare, I must now determine if a financial hardship existed. *If (emphasis added)* Appellant had no access to affordable employer-sponsored health insurance in tax year 2021, the Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was \$29,120.00. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that his monthly living expenses exceeded, or left him with little to no income in 2021. Based on the appellant's testimony, his monthly income before taxes was \$2,426.67 per month, while his necessary expenses were \$1,766.67 per month. This would leave approximately \$296.00 left over, after accounting for taxes. A large portion of these monthly expenses were relating to medical costs the Appellant previously incurred and also represented a minimum amount of payment for his ongoing housing costs (Appellant's Testimony).

The Appellant testified credibly that he struggled to meet his monthly living expenses. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). Because of this, his penalty is waived in full.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum



# CONNECTOR APPEALS UNIT



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 2021.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in 2021. He filed his 2021 Massachusetts tax return as a single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$20,604.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 160% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Assistant Store Leader at GameStop and in a Part-Time capacity. (Appellant's Testimony).
5. Appellant was not offered health insurance by his employer. (Appellant's Testimony).
6. The Appellant does not currently have Health Insurance through his employer as of February of 2023. (Appellant's Testimony).
7. The Appellant testified that he was 25 at the start of 2021 and turned 26 in May of that year. Once the Appellant turned 26, he was removed from his Father's Health Insurance Coverage. (Appellant's Testimony). Appellant was employed at the time in a part time capacity and attempted to join his employer's health insurance coverage. (Appellant's Testimony).
8. Appellant testified that his employer denied his attempt to join during a special enrollment period, indicating to the Appellant that his removal from his Father's Health Insurance Plan did not qualify as a qualifying life event, making him ineligible to join the plan outside of its open enrollment period. (Appellant's Testimony).
9. Appellant further testified that he then applied for what he believed was "MassHealth" and was informed later that his application had been accepted, but that he would be required to pay \$350 dollars per month. Appellant testified he could not afford the proposed \$350 month payment.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

# CONNECTOR APPEALS UNIT



- 11. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$20,604.00 was deemed able to pay \$49.79 per month for health insurance, or 2.90% of his income. According to Table 4, Appellant, age 25 and living in Middlesex County, could have purchased private insurance for \$263.00 per month.
- 12. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
- 13. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$300.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$210.00	<u>Food</u>	\$200.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>		<u>Cell Phone</u>	\$0.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$0.00	<u>Household &amp; Toiletries</u>	\$50.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$10.00	<u>Total:</u>	\$770.00

- 14. Based on the appellant’s testimony, his monthly income before taxes was \$1,717.00 per month, while his necessary expenses were \$770.00 per month. This would leave approximately \$689.45 left over, after accounting for taxes.
- 15. Appellant’s statement of grounds for appeal was on the basis of:
  - a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
- 16.Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
- 17. Appellant did not fall more than thirty days behind in rent payments in 2021.

# CONNECTOR APPEALS UNIT



He did not receive any shut-off notices for basic utilities (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 2021 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 for 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 had health insurance for 6 month(s) in 2021. He has been assessed a tax penalty for 3 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B).

Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified

## CONNECTOR APPEALS UNIT



adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Under the Federal Affordable Care Act, employer based insurance would have been affordable if it cost \$163.12 per month. Per the even more generous Massachusetts state rules, if the Employer Sponsored Insurance (“ESI”) coverage is over 8.00% of the Appellant’s income per month, it is deemed unaffordable. In this case however, we have no specific information to indicate what the potential costs of the Appellant’s Employer Sponsored Insurance would have been.

The Appellant testified that his employer denied him the opportunity to apply outside of open enrollment, even though his change in age from 25 to 26, making him ineligible to remain on his parent’s health coverage, would appear to have made him eligible to apply for a special enrollment period. (Appellant’s Testimony). I credit the appellant’s testimony in this regard. Through no fault of the appellant’s, he was denied the opportunity to participate in his employer’s healthcare plan. The Appellant’s loss of coverage due to his aging out of care under his family’s insurance should have allowed him an opportunity for a Special Enrollment Period.

I find that because the Employer interfered with the Appellant’s ability to obtain Employer-Sponsored Insurance, no penalty should be imposed if no other affordable options were available. See 956 CMR 6.08 (3).

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$20,604.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$49.79 per month for health insurance, or 2.90% of his income; according to Table 4, Appellant, who was 25 years old in 2021, lived in Middlesex County and filed he 2021 Massachusetts taxes as a single person with 0 dependents, would have had to pay \$263.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

### Availability of ConnectorCare

Because Private Insurance was unaffordable and the Appellant’s employer interfered with his ability to obtain Employer-Sponsored Insurance we now look to see if the Appellant was eligible for ConnectorCare through the Health Connector.

No arguments have been made to indicate that the Employer-Sponsored Insurance the Appellant had access to was unaffordable. (Appellant’s Testimony). Rather, the Appellant argues the Employer-Sponsored Insurance he sought to apply for was

## **CONNECTOR APPEALS UNIT**



blocked by his employer due to his attempts to apply outside of Open Enrollment. To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3).

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2021, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)).

Based on the information provided, outside of his employer's interference, as discussed above, the Appellant appears to have had access to affordable Employer-Sponsored Insurance. Because of that, the Appellant would not be eligible for ConnectorCare or any APTC's from the Health Connector.

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Conclusion

Appellant had no affordable health insurance available to him in 2021 through his employment, the private market or through a government program such as ConnectorCare - in part because his employer interfered with his ability to obtain such coverage. Because of this, as per 956 CMR 6.08 (3), his penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2.

Since his penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2021.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

**PENALTY ASSESSED**

# CONNECTOR APPEALS UNIT



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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of this 2021 Tax Year Penalty

Hearing Date: February 9, 2023                  Decision Date: Friday, February 24, 2023

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**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 9, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1:    Appeals Case Information from Schedule HC                  1 page
- Exhibit 2:    Appellant's Statement of Grounds for Appeal                  2 pages
- Exhibit 3    Correspondence from the Appellant                  1 page

# CONNECTOR APPEALS UNIT



Exhibit 4	W2 for the Appellant from his Employer	1 Page
Exhibit 5	1095-B Health Care Coverage form, for the Appellant, for 2021.	1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in 2021. He filed his 2021 Massachusetts tax return as a single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$30,157 (Exhibit 1, Appellant's Testimony). Appellant's Income was 158% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Retail Lead Manager and in a Full Time capacity. (Appellant's Testimony). The Appellant lost this position in June of 2021. (Appellant's Testimony). Appellant testified that his health care coverage lapsed in July of 2021 and that he could not afford to pay for the offered COBRA benefits.
5. The Appellant obtained new employment in October of 2021. (Appellant's Testimony). Appellant's new employer offered health insurance, but he was ineligible for that health insurance until after 90 days of employment. (Appellant's Testimony). The timing of his eligibility for health insurance through his new employer took him out of the 2021 Tax year. (Appellant's Testimony).
6. Upon becoming eligible for the new health insurance from his new employer, Appellant discovered the cost of the above referenced health insurance to be \$300 per month.
7. The Appellant does not currently have Health Insurance through his employer, which the Appellant testified would cost \$300 per month, as of February of 2023. (Appellant's Testimony). Appellant testified that he would be working with the Health Connector in the near future to try and obtain coverage. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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

# CONNECTOR APPEALS UNIT



Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

- 9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$30,157 was deemed able to pay \$72.88 per month for health insurance. According to Table 4, Appellant, age 25 and living in Bristol County, could have purchased private insurance for \$263.00 per month.
- 10. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
- 11. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$525.00	<u>Car Insurance</u>	\$167.00	<u>Medical/Dental</u>	\$340.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$500.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>		<u>Cell Phone</u>	\$50.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$0.00	<u>Household &amp; Toiletries</u>	\$25.00		
<u>Car</u>	\$295.00	<u>Clothing</u>	\$20.00	<u>Total:</u>	\$2,160.50

- 12. Based on the appellant's testimony, his monthly income before taxes was \$2,513.08 per month, while his necessary expenses were \$2,160.50 per month. This would leave approximately -\$24.38 left over, after accounting for taxes.
- 13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
- 14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member,

## CONNECTOR APPEALS UNIT



or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2021. He did not receive any shut-off notices for basic utilities (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 2021 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 for 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 had health insurance for 6 month(s) in 2021. He has been assessed a tax penalty for 2 months. He appealed the assessment. See Exhibits listed above. To determine if this 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

#### Appellant’s Employment & Employer Based Insurance

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B).

## CONNECTOR APPEALS UNIT



Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. *See* 26 CFR § 1.36B-2(c)(3).

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant had a household modified adjusted gross income of \$30,157 in 2021, or \$2,513.08 per month. An employer sponsored plan's coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Under the Federal Affordable Care Act, insurance would have been affordable if it cost \$238.74 per month. In this case, for the months where the Appellant was assessed a tax penalty, the insurance available to the appellant from his employers would have cost \$300.00 per month, and was therefore unaffordable.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$30,157 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$72.88 per month; according to Table 4, Appellant, who was 25 years old in 2021, lived in Bristol County and filed his 2021 Massachusetts taxes as a single person with 0 dependents, would have had to pay \$263.00 for insurance on the private market. *See* 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

### Availability of Private ConnectorCare

Because the coverage offered via the Appellant's employer was UNAFFORDABLE and health insurance on the private market was deemed UNAFFORDABLE, the next step is to see if Appellant was eligible for ConnectorCare based on his income level as it compares to the Federal Poverty Level. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for

## CONNECTOR APPEALS UNIT



an APTC. 956 Code Mass. Regs. 12.09 (1). Because the Appellant's Income was 158% of the Federal Poverty Level, he is ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

Appellant testified, and I find the testimony to be credible, that the Appellant did not attempt to obtain health insurance from Health Connector exchange in 2021 because he believed that he would become eligible for and enroll in employer sponsored health care coverage after transitioning from his prior employment to his current employment on or around the Summer of 2021. (Appellant's Testimony). Because of the lack of information the Appellant had relating to the costs of the insurance with his new employer, the timing of his ability to apply for ConnectorCare was impacted, through no fault of his own.

In light of the circumstances, it appears clear that the Appellant had no affordable health insurance available to him, nor was he able to apply to ConnectorCare in a timely manner to avoid the tax penalty because of the restrictions placed upon his enrollment in his employer's health insurance due to his status as a new employee.

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Conclusion

Appellant had no affordable health insurance available to him in 2021 through his employment, the private market or through a government program such as ConnectorCare. Because of this, his penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since his penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2021, although from the facts before me it certainly would appear that if the appellant had affordable health insurance available to him, he would have qualified for a waiver due to financial hardship.

Because of this, his penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since his penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2021.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

# CONNECTOR APPEALS UNIT



## 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 2021.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 11, 2023

Decision Date: Tuesday, April 25, 2023

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### 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 April 11, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant’s Statement of Grounds for Appeal	1 page
Exhibit 3	Correspondence from the Appellant	1 page



# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 39 years old in 2021. He filed his 2021 Massachusetts tax return as a single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Barnstable County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$30,396.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 236% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Case Manager and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant testified that he experienced periods of unemployment during the year 2021, and was employed during the following months: July through through the end of the year in 2021
6. The Appellant was offered health insurance in 2021, by their employer, at an approximate monthly cost of \$175.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance through his employer, as of April of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant, having no dependents and with an adjusted gross income of \$30,396.00, was deemed able to pay \$73.46 per month for health insurance, or 2.90% of his income. According to Table 4, Appellant, age 39 and living in Barnstable County, could have purchased private insurance for \$275.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
11. In 2021, Appellant had the following monthly expenses for basic necessities:

# CONNECTOR APPEALS UNIT



<u>Rent or Mortgage</u>	\$537.50	<u>Car Insurance</u>	\$90.00	<u>Medical/Dental</u>	\$250.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$300.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$50.00	<u>Food</u>	\$300.00	<u>Credit Cards</u>	
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$90.00	<u>Other:</u>	
<u>Electricity</u>	\$160.00	<u>Household &amp; Toiletries</u>	\$60.00		
<u>Car</u>	\$340.00	<u>Clothing</u>	\$0.00	<u>Total:</u>	\$2,387.50

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,533.00. After accounting for an approximation of potential taxes, his necessary expenses were determined to be \$2,387.50 per month. As a result, this leads to an approximate deficit of -\$234.45 in his monthly financial situation when considering the tax deductions.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
16. Appellant testified he could not afford any health insurance due to the disparity between his necessary expenses and income.

## ANALYSIS AND CONCLUSIONS OF LAW

# CONNECTOR APPEALS UNIT



The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 6 month(s) in 2021 (Appellant’s Testimony). He has been assessed a tax penalty for 3 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

## Appellant’s Employment & Employer Based Insurance

The Appellant, during the year 2021, was provided with an option to obtain health insurance through his employer. The cost of this insurance was approximately \$175.00 per month, as stated by the Appellant during his testimony.

However, the critical point to note is that the penalty in question pertains to a period when the Appellant was not employed. This period extended from January to June of 2021, as confirmed by the Appellant’s testimony and corroborated by Exhibit 1.

Based on these facts, it is determined that during the time when the penalty was imposed, the Appellant was not in a position to benefit from Employer-Sponsored Insurance, primarily due to his unemployment status. Therefore, it is reasonable to conclude that access to affordable health insurance through an employer was not

# CONNECTOR APPEALS UNIT



available to the Appellant at the time of the penalty.

## ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant in this case would not have been blocked for applying for Health Insurance from the Health Connector due to having access to affordable Employer-Sponsored Insurance. In fact, it appears, based on the Appellant's income, he would have been eligible for Plan Type 3B, which in 2021 the lowest monthly premium began at \$89 a month.

Additionally, in light of the Appellant's testimony regarding periods of unemployment during 2021, it is crucial to consider that the Appellant would have qualified for a Special Enrollment Period (SEP) due to the loss of his job or would have been able to sign up at Open Enrollment in 2021, which ran from November 1, 2021, and ended on January 23, 2022.

The Appellant, during his periods of unemployment, had access to affordable health care through the Special Enrollment Period (SEP) offered by the Massachusetts Health Connector. This opportunity allowed the Appellant to enroll in a suitable health insurance plan, including ConnectorCare, based on his income and the affordability of available options. Therefore, despite the temporary loss of employer-sponsored coverage, the Appellant had the means to maintain continuous and affordable health care coverage throughout 2021.

## Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$30,396.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$73.46 per month; according to Table 4, Appellant, who was 39 years old in 2021, lived in Barnstable County and filed his 2021 Massachusetts taxes as a single person with 0 dependents, would have had to pay \$275.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health

# **CONNECTOR APPEALS UNIT**



insurance through any other government-sponsored program.

## **Financial Hardship Analysis**

Since affordable insurance was available to the Appellant in 2021 through the Health Connector, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2021 they incurred necessary monthly expenses of approximately \$2,387.50. Those expenses were more than his regular monthly net income of approximately \$2,153.05, thereby making any additional health insurance premium unmanageable during Appellant’s three (3) penalty months.

Therefore, It does appear that paying additional money per month for health insurance would have imposed an excessive financial burden.

## **Conclusion**

The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant’s 3 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he 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:           3                   Number of Months Assessed:           0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

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

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

# CONNECTOR APPEALS UNIT



Hearing Officer

cc. Connector Appeals Unit

**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 21, 2023                    Decision Date: Wednesday, December 27, 2023

**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 April 21, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:    Appeals Case Information from Schedule HC                    1 page  
Exhibit 2:    Appellant's Statement of Grounds for Appeal                    1 page

**FINDINGS OF FACT**

# CONNECTOR APPEALS UNIT



The record shows, and I so find:

1. Appellant was 31 years old in 2021. He filed his 2021 Massachusetts tax return as Married Filing Jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Hampshire County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Household Income for 2021 was \$233,673.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 1341% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Planetarium Instructor at the Springfield Museum, Inc., and in a Part-Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant's Testimony). The Appellant was not eligible for health insurance from his employer due to their employment being of a part-time nature. (Appellant's Testimony).
6. The Appellant does currently have Health Insurance through his wife's employer, as of April of 2023. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$233,673.00 was deemed able to pay \$1,557.82 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 31 and living in Hampshire County, could have purchased private insurance for \$482.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
10. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you;



## CONNECTOR APPEALS UNIT



or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof.(Testimony of Appellant, Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
13. The Appellant testified that he made attempts to enroll in health insurance through the Health Connector's website in September 2020, when his employment contact with the Springfield School system ended, thereby taking away his employer sponsored health insurance. Notably, the Open Enrollment period for 2021 is November 1, 2021 through January 23, 2022. It appears the Appellant tried to Apply outside of the Open Enrollment period. (Appellant's Testimony).
14. Appellant encountered difficulty during the sign-up process and was unsure of the reason. (Appellant's Testimony). The Appellant also mentioned that he had experienced similar issues during previous attempts to enroll. (Appellant's Testimony). Appellant speculated that the cause of the problem may have been due to insufficient personal information provided during the enrollment process. (Appellant's Testimony).
15. Subsequently, the Appellant contacted the Health Connector via phone in 2020, a few weeks after the unsuccessful online enrollment attempt, and was advised that additional paperwork would be sent to him to fill out. (Appellant's Testimony).
16. Despite the passage of several months, the Appellant did not receive the required documentation, which prevented him from successfully enrolling in the health insurance plan. (Appellant's Testimony).
17. Appellant also testified that he contacted the Health Connector via phone on several occasions to inquire about the status of the paperwork being sent and that in each instance he was able to confirm that his case was pending with the connector and that he should receive his documentation in the mail. The Appellant testified that the paperwork primarily pertained to his income and personal information. (Appellant's Testimony).

## CONNECTOR APPEALS UNIT



18. The Appellant reported that he eventually received the necessary paperwork from the Health Connector in the late spring of 2021, but by that time, he had decided to forgo the application process. (Appellant's Testimony). This decision was made in light of his impending wedding scheduled for July 2021, after which he planned to join his fiancée's health insurance plan, which he ultimately did. (Appellant's Testimony).

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 5 month(s) in 2021. He has been assessed a tax penalty for 4 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

#### Appellant's Employment & Employer Based Insurance

The Appellant was not eligible for health insurance due to their employment being of a part-time nature. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant's Testimony). The Appellant was assessed a penalty of 4 months based on their lack of

## CONNECTOR APPEALS UNIT



coverage over 7 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Because the Appellant's employer did not offer healthcare coverage, testimony from the Appellant which I credit, for the purposes of this Appeal, I will find that such coverage was unavailable.

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer did not offer Employer-Sponsored Insurance, he would not be blocked for applying through the Health Connector in light of any affordable Employer-Sponsored Insurance coverage.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Household Income was 1341% of the Federal Poverty Level, he is ruled to be **INELIGIBLE** for subsidized coverage under ConnectorCare.

### Availability of Private Insurance

Private insurance was **AFFORDABLE** for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$233,673.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,557.82 per month; according to Table 4, Appellant, who was 31 years old in 2021, lived in Hampshire County and filed his 2021 Massachusetts taxes as a Married filing jointly with 0 dependents, would have had to pay \$482.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's income (\$19,472.75 per month), tax filing status, place of residence, and expected affordable amount he could pay per the 2021 Schedule HC

## CONNECTOR APPEALS UNIT



Tables (\$1,557.82 per month), the Appellant could have afforded private health insurance with a premium of \$482.00 per month. (2021 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through private insurance in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1). In this specific instance however, the Appellant is not arguing or presenting evidence that he suffered from a financial hardship. Instead the Appellant argues that he in fact attempted to utilize the Health Connector to sign up for health insurance, but that various technical and other administrative issues stopped him from being able to do so. I find based on lack of evidence submitted by the appellant, that no financial hardship existed.

### Equitable Grounds for Relief

The Appellant's experience, as described in his testimony, reveals a series of challenges in his attempts to enroll in health insurance through the Health Connector's website. These challenges appear to be consistent with the shortcomings acknowledged by the Health Connector in their Commonwealth Health Connector Insurance Authority Strategic Plan 2020-2022<sup>1</sup>. The Appellant's inability to apply and enroll in a health insurance plan does not appear to be a result of his own actions, but rather due to the technical and administrative difficulties and inefficiencies inherent in the Health Connector's system.

Under Massachusetts regulation 956 CMR 6.08 (3), I have the authority to waive the insurance requirement if an individual can demonstrate other grounds that they were unable to afford coverage that met minimum standards. The Appellant provided credible testimony about the difficulties encountered while attempting to apply for health insurance coverage through the Health Connector. The Appellant made several good faith efforts to follow up by phone to check on the status of paperwork, and was repeatedly told by Connector representatives that the application was still pending.

Due to these administrative issues outside of the Appellant's control, he was unable to complete the application process and secure affordable health insurance coverage through the Connector. I find the Appellant's account of events reasonable and am satisfied he made reasonable efforts to obtain affordable coverage.

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<sup>1</sup> <https://www.mahealthconnector.org/wp-content/uploads/MA-Health-Connector-Strategic-Plan-2020-2022.pdf>

# CONNECTOR APPEALS UNIT



Therefore, in light of the regulatory guidance and the facts of this specific case, I have decided to grant the Appellant's request for an appeal and waive the tax penalty assessed to him for not having appropriate health care coverage.

## Conclusion

Given the credible testimony provided relating to the administrative issues encountered while attempting to obtain affordable coverage through the Health Connector, I find that the Appellant made reasonable efforts to comply with insurance requirements, and should not be penalized due to circumstances outside of their control. For these reasons, the Appellant's 4 month penalty is waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he 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: 4                      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

## 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

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 21, 2023

Decision Date: Tuesday, April 25, 2023

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### 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 April 21, 2023. The procedures to be followed during the hearing were reviewed with Appellant. was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	1 page
Exhibit 3	Certificate of Death for Appellant's Wife	2 Pages
Exhibit 4	Social Security Benefit Verification Letter, dated	2 Pages

# CONNECTOR APPEALS UNIT



5/18/2022

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 62 years old in 2021. Appellant filed his 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$124,860.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 969% of the Federal Poverty level and based on income, if all other conditions were met, would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Quality Assurance Technician (specializing in cabling) at a Wire and Cable company and in a Full Time capacity. (Appellant's Testimony).
5. Appellant did experience a period of unemployment during 2021, and was only employed in their position from January through April. (Appellant's Testimony).
6. The Appellant was offered health insurance in 2021, by their employer, at an approximate monthly cost of \$176.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of April of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$124,860.00 was deemed able to pay \$832.40 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 62 and living in Essex County, could have purchased private insurance for \$401.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).

# CONNECTOR APPEALS UNIT



11. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$1,480.00	<u>Car Insurance</u>	\$116.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$320.00	<u>House Maintenance</u>	\$266.67
<u>Cable/Internet</u>	\$289.00	<u>Food</u>	\$500.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$175.00	<u>Cell Phone</u>	\$63.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$290.00	<u>Household &amp; Toiletries</u>	\$120.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$3,864.44

12. Upon examining the appellant's testimony, it was ascertained that gross monthly income was \$10,405.00. After accounting for an approximation of potential taxes, necessary expenses were determined to be \$3,864.44 per month. As a result, this leads to an approximate surplus of \$4,979.81 in his monthly financial situation when considering the tax deductions.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; and During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required you to hire a full-time caretaker for the child. Provide proof such as death certificates, verification of family relationship, medical letters, or any other proof.(Testimony of Appellant, Exhibit 2).

14. Appellant did state that they believed they incurred significant and unexpected increases in essential expenses as a result of the death of a spouse, family member, or partner who shared household expenses in 2021 (Testimony of Appellant). The Appellant testified that his spouse passed away on or around



# CONNECTOR APPEALS UNIT



February of 2020.

15. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
16. During the hearing, the Appellant testified about their employment-seeking efforts, stating that they faced difficulties securing a position due to wage disagreements. Appellant also expressed concerns about being unable to afford the health connector costs because of his limited income. (Appellant's Testimony).
17. The Appellant also disclosed financial strain resulting from a home equity line of credit, obtained in 2006 to finance their children's education. (Appellant's Testimony). Appellant explained that a balloon payment in 2021 had exacerbated their financial situation, further impacting their ability to cover the aforementioned expenses. (Appellant's Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to their testimony.

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 for 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 had health insurance for 3 month(s) in 2021. Appellant has been assessed a tax penalty for 6 months. Appellant appealed the assessment. See Exhibits listed above. 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 either (1) employment, through (2)

## CONNECTOR APPEALS UNIT



the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2021, by their employer, at an approximate monthly cost of \$176.00. (Appellant's Testimony). The Appellant testified that they experienced periods of unemployment during the year 2021, and were employed during the following months: January through April. (Appellant's Testimony). The Appellant was assessed a penalty of 6 months based on their lack of coverage over 9 months. The penalty appears to have been levied in light of the Appellant's unemployment for approximately 9 months and their inability to procure alternative employment or decision not to sign for health care coverage via the Health Connector.

In Massachusetts, the determination of affordability for employer-sponsored health plans is guided by state-specific guidelines. According to Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by their employer was \$176.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2021, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income. The employer's offering constitutes 1.69% of the employee's income, well within the 8.00% threshold set by Massachusetts state guidelines.

However, it is important to note that the Appellant was unemployed from May through December. This period of unemployment significantly impacts the affordability calculation. The months in which penalties were applied correspond with the Appellant's unemployment. During this time, he did not have access to affordable Employer-Sponsored Insurance.

Therefore, despite the insurance being affordable during the months of his employment, for the purposes of this appeal, I find that his unemployment status and the corresponding lack of access to affordable employer-sponsored coverage did not impede his eligibility to obtain ConnectorCare from the Health Connector. This change

## CONNECTOR APPEALS UNIT



in circumstances is critical in assessing the accessibility of health coverage for the Appellant during the 2021 tax year.

### ConnectorCare Eligibility

To be eligible for ConnectorCare, which offers state subsidies and advance premium tax credits, an individual must not have access to affordable employer-sponsored insurance as per the Affordable Care Act guidelines (see 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B)). Only employer-provided insurance that is both affordable and meets minimum value standards can prevent an employee from qualifying for an advance premium tax credit (26 CFR § 1.36B-2(c)(3)).

At the start of 2021, the Appellant was ineligible for ConnectorCare due to having access to affordable healthcare through their employer. However, losing a job and the consequent loss of employer-sponsored health coverage triggers a Special Enrollment Period (SEP) under the Massachusetts Health Connector. This SEP allows an individual to enroll in a new health plan through the Health Connector within 60 days of losing their previous coverage. However, since the Appellant's income was 969% of the Federal Poverty Level, they are deemed INELIGIBLE for subsidized coverage under ConnectorCare and any Advance Premium Tax Credits (APTC).

Massachusetts residents can qualify for extra state premium assistance under a subsidized ConnectorCare plan if their household income is no more than 300% of the federal poverty level and they are eligible for an APTC (956 Code Mass. Regs. 12.09(1)). For Advance Premium Tax Credit (APTC) eligibility, a tax filer's household income must be between 100% and 400% of the federal poverty level for the year they seek coverage (45 CFR 155.305(f)(1)(i)).

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$124,860.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$832.40 per month; according to Table 4, Appellant, who was 62 years old in 2021, lived in Essex County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$401.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$10,405.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$832.40 per month), the Appellant could have afforded private health insurance with a premium of \$401.00 per month. (2021 Schedule HC Tables)

# CONNECTOR APPEALS UNIT



## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

The Appellant had access to affordable insurance during the months when the penalty for lacking insurance was assessed. This was through private insurance in the periods when the Appellant was unemployed. Consequently, it is necessary to ascertain if the Appellant encountered financial hardship, as defined under 956 CMR 6.08 (1).

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 completely waive their penalty for the months in question.

Appellant testified that in light of his spouse's passing in 2020, he was faced with a series of financial challenges that were unexpected and which caused him to make decisions that limited the use of his income from employment, unemployment benefits and proceeds from a life insurance policy that produced a payout in 2021 and was reflected in his AGI for that year. (Appellant's Testimony).

After reviewing the Appellant's testimony, it becomes clear that the unexpected expenses the Appellant was forced to deal with resulted from past financial decisions, which were related to discretionary expenses rather than necessary or essential ones.

The appellant testified that in 2021 they incurred essential monthly expenses of approximately \$3,864.44. Those expenses were less than his regular monthly pre-tax income of approximately \$10,405.00, thereby making a private health insurance premium of \$401.00/month seemingly manageable.

In light of the Appellant's unfortunate and deeply saddening loss of their spouse in 2020, it is acknowledged that they likely faced specific expenses and financial challenges associated with this significant life transition. Recognizing the emotional and financial burdens that the Appellant has endured due to this tragic event, I have decided, with compassion and understanding, to waive three (3) months of the six (6) month penalty. This decision aims to provide some relief to the Appellant as they continue to navigate through this difficult period in their life.

## Conclusion

Although the Appellant has not demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship, as

## **CONNECTOR APPEALS UNIT**



outlined in 956 CMR 6.08(1)(e), it is important to consider the unique circumstances surrounding the Appellant's situation. Per 956 CMR 6.08 (3), in light of the unfortunate and deeply saddening loss of their spouse in 2020, it is acknowledged that they likely faced specific expenses and financial challenges associated with this significant life transition. Recognizing the emotional and financial burdens that the Appellant has endured due to this tragic event, I have decided, with compassion and understanding, to waive three (3) months of the six (6) month penalty. This decision aims to provide some relief to the Appellant as they continue to navigate through this difficult period in their life.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. should not assume that a similar determination will be made in the future should 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:        6                      Number of Months Assessed:        3

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 2021.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 11, 2023

Decision Wednesday, May 31, 2023

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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 May 11, 2023. The procedures to be followed during the hearing were reviewed with Appellant. The Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC         | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal       | 2 Pages |
| Exhibit 3  | Correspondence from the Appellant                 | 1 page  |
| Exhibit 4  | Correspondence from the Massachusetts Division of | 1 page  |

# CONNECTOR APPEALS UNIT



Insurance, dated December 15th, 2021

Exhibit 5 Correspondence from the Texas Division of Insurance, 1 page  
dated December 15th, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 54 years old in 2021. Appellant filed his 2021 Massachusetts tax return as Married filing jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$73,996.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 575% of the Federal Poverty level and based on income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021 as a Carpenter and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. Appellant was not offered health insurance by his employer.
7. The appellant stated that he and his spouse acquired health insurance in January 2021 after his spouse was compelled to resign from her job due to a disability she had incurred in 2020. The Appellant testified that prior to 2021, his wife had provided health insurance for the family through her employment.
8. Appellant's wife also confirmed that she was awarded Social Security Disability Insurance Benefits around October 2021 during the hearing. (Appellant's Wife's Testimony).
9. The appellant asserted that his spouse enrolled them both in health insurance in January 2021, specifically selecting a policy from Salvasen Health, a Texas-based health insurance provider. (Appellant's Testimony).
10. The appellant further indicated that in late fall 2021, he discovered during a doctor's visit that his health insurance did not cover routine medical expenses. The couple was surprised by this revelation and promptly filed complaints with the Massachusetts Division of Insurance and the Texas Department of Insurance. (Appellant's Testimony and Exhibits).
11. On or around January 25, 2022 of this year, the Health Connector issued an

## CONNECTOR APPEALS UNIT



administrative bulletin regarding Salvasen Health, indicating that there have been concerns raised regarding organizations like Salvasen Health, which is not an insured health carrier. It is important for consumers to be aware that misleading information about health plans, especially concerning compliance with the Affordable Care Act, violates state insurance consumer protection laws. For safe and compliant coverage, Massachusetts residents are advised to use the Health Connector, which offers state and federally approved medical benefits and consumer protections<sup>1</sup>. I take notice of this bulletin for the purposes of this appeal.

12. On or around 11/01/2021 the Division of Insurance and Massachusetts Health Connector issued a press release to Warn Consumers to Use Caution When Shopping for Health Insurance Options during Open Enrollment. Specifically this press release stated: There are 10 licensed insurance carriers approved to sell insured health plans to Massachusetts-residing individuals. Over the past year, our offices have received inquiries and complaints about organizations such as Salvasen Health, Trinity Health Share, Multiplan/PHCS, BlackHawk Claims, CrowdHealth and National Association of Preferred Providers, none of which are insured health carriers, and in some cases are only access to networks of providers. It is a violation of the state's insurance consumer protection laws for a licensed agent or company to knowingly mislead or misinform a consumer about the product they are looking to purchase so consumers should be sure to ask whether the product they are buying is an insured health plan that is compliant with the Affordable Care Act<sup>2</sup>. I take notice of this press release for the purposes of this appeal.
13. Subsequently, the appellant reported that with assistance from the Special Investigations Unit at the Massachusetts Division of Insurance, all uncovered costs were reimbursed as part of a settlement to their complaints, since their plan did not meet the minimum creditable coverage standards. The appellant explained that they opted for this particular insurance policy due to the financial impact of his spouse's job loss and subsequent disability.
14. The Appellant does currently have Health Insurance as of May of 2023, from the Health Connector. (Appellant's Testimony). Appellant's wife currently has insurance through her SSI Disability program. (Appellant's Testimony).
15. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at

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<sup>1</sup> <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin01-22.pdf>

<sup>2</sup> <https://www.mass.gov/news/division-of-insurance-and-massachusetts-health-connector-warn-consumers-to-use-caution-when-shopping-for-health-insurance-options-during-open-enrollment>



# CONNECTOR APPEALS UNIT



300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

16. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, filed his taxes as Married and Filing Jointly and with an adjusted gross income of \$73,996.00 was deemed able to pay \$493.30 per month for health insurance, or 8.00% of his family's income. According to Table 4, Appellant, age 54 and living in Worcester County, could have purchased private insurance for \$825.00 per month.

17. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).

18. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$900.00	<u>Car Insurance</u>	\$230.00	<u>Medical/Dental</u>	\$50.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$500.00	<u>House Maintenance</u>	\$183.33
<u>Cable/Internet</u>	\$220.00	<u>Food</u>	\$500.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$250.00	<u>Cell Phone</u>	\$300.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$250.00	<u>Household &amp; Toiletries</u>	\$20.00		
<u>Car</u>	\$450.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$3,986.67

19. Upon examining the appellant's testimony, it was ascertained that gross monthly income was \$6,166.33. Necessary expenses were determined to be \$3,986.67 per month. As a result, this leads to an approximate surplus of, after accounting for an approximation of federal and state taxes, \$1,162.48 in the Appellant's monthly financial situation.

20. Appellant's statement of grounds for appeal was on the basis of:

- a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; and During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of

## CONNECTOR APPEALS UNIT



domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required you to hire a full-time caretaker for the child. Provide proof such as death certificates, verification of family relationship, medical letters, or any other proof; and

- b. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof.(Testimony of Appellant, Exhibit 2).
21. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
22. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
23. Appellant appeals the tax penalty for lack of minimum creditable coverage (MCC) because Appellant was unaware that Appellant's health insurance did not meet the MCC standards. (Appellant's Testimony).
24. Appellant relied on information from Appellant's insurance company, which the Appellant's indicated that at the time of the purchasing of his and his wife's coverage, met the MCC standards. Appellant also reviewed Appellant's coverage documents and did not see any indication that it did not meet the MCC standards. (Appellant's Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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

## CONNECTOR APPEALS UNIT



Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2021 and has been assessed a tax penalty for 12 months. Appellant appealed the assessment. See Exhibits listed above. 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 either (1) employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by their employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant was not offered Health Insurance from his employer. (Appellant’s Testimony). I will for the purposes of this appeal assume that such coverage was unavailable and note that the Appellant, based on their income would have been INELIGIBLE for a ConnectorCare plan, as their income is 575% of the Federal Poverty Level.

## CONNECTOR APPEALS UNIT



In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Because the Appellant's Income was 575% of the Federal Poverty Level, he is ruled to be INELIGIBLE for any APTCs as well.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$73,996.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$456.31 per month; according to Table 4, Appellant, who was 54 years old in 2021, lived in Worcester County and filed his 2021 Massachusetts taxes as Married Filing Jointly with 0 dependents, would have had to pay \$825.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$6,166.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$456.31 per month), private health insurance with a premium of \$825.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellants are appealing involves the reality that they purchased HealthCare coverage which they believed to be adequate but which in fact did not meet the Commonwealth's standards for minimum creditable coverage.

In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance. The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty. However, under certain

# CONNECTOR APPEALS UNIT



circumstances, this penalty may be waived.

The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2. By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt from the mandate and will not be penalized.

In this case, we must consider the situation where an individual did not have Minimum Creditable Coverage (MCC) during the 2021 tax year, which normally results in a penalty. However, under the regulations (956 CMR 6.08(3)), the Health Connector is required to consider circumstances that might prevent someone from affording health insurance that is both affordable and meets MCC standards.

After reviewing the case, it is evident that the appellant was misled by Salvasen Health regarding the health insurance plan offered to him. This misinformation impacted the quality and nature of the coverage he received. It is clear that in 2021, the appellant was disadvantaged by the actions of Salvasen Health, which essentially prevented him from obtaining other insurance options that would qualify as MCC.

Given this situation and the relevant regulations, it is determined that the appellant did not have access to affordable health coverage, whether through the private market, an employer, or the Health Connector, due to the actions of Salvasen Health. Therefore, a hardship analysis is not needed in this case.

As a result, the tax penalty imposed on the appellant for the year 2021 is waived.

## Conclusion

The Appellant's situation, particularly the misleading actions of Salvasen Health, effectively denied him access to affordable health insurance that met Minimum Creditable Coverage standards.

This situation aligns with the provisions of 956 CMR 6.08(3), which mandates consideration of factors preventing affordable coverage. Given these circumstances, a serious financial hardship analysis is not required. Accordingly, the Appellant's 12-month penalty for the year 2021 is hereby waived.

## PENALTY ASSESSED

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

## **CONNECTOR APPEALS UNIT**



If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1369

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 13, 2024

**Decision Date:** February 13, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal 2022) with Handwritten Notes;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter Re Accident (1 page, dated 2.5.22);
5. Ghazi Auto Charge for Car Repair (dated 10/7/22);
6. Ghazi Auto Charge for Routine Maintenance (\*\*); and
7. Inner Balance Treatment Charge (dated 8/2/22).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$34,666. Exhibit 1.
3. The Appellant was 64 years old at the beginning of 2022 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$34,666) was less than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for state government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of her income -- or \$144 per month -- for health insurance coverage in 2022. (The calculation is 5.00 % multiplied by \$34,666 AGI = \$1,733.30 per year divided by 12 months = \$144.44 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$435 per month in 2022.
7. In March 2022 the Appellant started to work for the Veterans Administration. This position paid \$15-\$16 per hour and did not provide benefits -- including healthcare insurance--to the Appellant. When the Appellant started this job she expected that she would soon be hired into a full-time salaried position that would provide healthcare insurance. The anticipated shift in the Appellant's employment status has not taken place (a younger woman obtained the position). Testimony.



8. The Appellant sustained a concussion in connection with a fall on February 5, 2022. Worker's Compensation partially covered her medical expenses and diminished income. The Appellant also sustained a second fall in 2022. The Appellant had to pay medical expenses out-of-pocket. Testimony and Exhibits 2 and 4.
9. The Appellant most recently had health insurance coverage during the coronavirus pandemic (COVID-19), when she also received unemployment insurance benefits. At some point the Appellant found that her doctors would not accept her government-subsidized health insurance, so she used her credit card to pay for medical expenses. Testimony. See also Exhibits 2 and 7.
10. The Appellant has paid for repairs to her old car, a 2006 Honda that now has 257,000 miles. One bill was for \$326, but the Appellant asserted that there were many more bills. Testimony and Exhibits 5 and 6.
11. The Appellant was in arrears on her electric utility bill. She avoided threatened termination of her service by borrowing money from her father (since deceased). Testimony and Exhibit 2.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2022. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the objective affordability standards set forth in DOR Standards 2, 3 and 4 establish that the Appellant could not afford health insurance in 2022. The Appellant's federal adjusted gross income (\$34,666) was less than 300% of the Federal

Poverty Level, which indicates that the Appellant should meet the financial eligibility standards for government-subsidized health insurance in Massachusetts. See Findings of Fact, No. 4, above. Based on her income the Appellant could afford to pay \$144 per month for health insurance, but at her age and location health insurance would cost \$435 per month. See Findings of Fact, Nos. 5 and 6, above.

Other financial information presented by the Appellant also supports the Appellant’s appeal from the 2022 penalty assessed by the Department of Revenue. The Appellant was behind in her electric utility payments, and she had substantial repair bills for her old car. At various times the Appellant paid medical bills out-of-pocket, due at least in part because the expected VA position with health insurance benefits was not realized.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**SEE MY RECOMMENDATION CONCERNING MEDICARE BELOW.**

**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 2022 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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

**RECOMMENDATION.** During the appeal hearing I learned that you are not enrolled in the federal Medicare program even though you have reached your 65<sup>th</sup> birthday – the typical age at which people enroll in Medicare. This is a serious concern since Medicare imposes a financial penalty on people who do not enroll in a timely manner (and you will no longer be eligible for insurance through the state Health Connector program).

Let me provide some contacts so you can pursue this issue as quickly as possible. Please note that Medicare is outside the scope of my work for the Health Connector, which is a state law program, and it is also outside the scope of this appeal. You should discuss your VA employment with a counselor versed in Medicare law.

1. SHINE. This is a state program that provides free Medicare counselling. Telephone 1-800-243-4636 to schedule an appointment near you. Stress that you have an urgent need to discuss your Medicare enrollment.
2. HEALTH CARE FOR ALL. This private, non-profit organization that is separate from the government provides free health insurance counseling. Telephone 1-617-350-7279 or use the website at [www.hcfama.org](http://www.hcfama.org).
3. MEDICARE ADVOCACY PROGRAM AT GREATER LEGAL SERVICES. Tel. 617-603-1700.
4. FOR YOUR OWN RESEARCH.
  - a. [www.mass.legalhelp.org](http://www.mass.legalhelp.org). Look under Medicare.
  - b. Medicare & You 2024. See Section 1 (signing up for Medicare). Free hard copy available on request from a Social Security office. Available online at [www.Medicare.gov](http://www.Medicare.gov)>Medicare-and-you.
5. ENROLLING IN MEDICARE. Contact your local Social Security office for an appointment.



# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 9, 2023

Decision Date: Friday, December 1, 2023

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### 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 9, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 45 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Head of the Household with 1 dependent claimed (Exhibit 1).
2. Appellant lived in Berkshire County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$40,592.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 222% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as an administrative assistant at Motor Carrier Company, in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$880.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of November of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has 1 dependent. As the Appellant has a dependent, their affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC., with an adjusted gross income of \$40,592.00 was deemed able to pay \$167.44 per month for health insurance, or 4.95% of her income. According to Table 4, Appellant, age 45 and living in Berkshire County, could have purchased private insurance for \$951.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

# CONNECTOR APPEALS UNIT



11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$600.00	<u>Car Insurance</u>	\$150.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$132.00		
<u>Cable/Internet</u>	\$95.00	<u>Food</u>	\$300.00		
<u>Heat</u>	\$100.00	<u>Cell Phone</u>	\$55.00		
<u>Electricity</u>	\$250.00	<u>Household &amp; Toiletries</u>	\$75.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$1,861.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$3,382.67. Her necessary expenses were determined to be \$1,861.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$962.64 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
- a. The Appellant did not specify the grounds for appeal on the form provided.
  - b. However, the Appellant's testimony clarified that she is appealing due to a clerical mistake made by the Health Connector. (Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022.

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.



## CONNECTOR APPEALS UNIT



Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant). Appellant did testify that she received a shut off warning for her electricity, but was able to pay the bill and avoid having the service shut off. (Appellant's Testimony).

16. The Appellant presented her case, asserting that she had engaged with the Health Connector's telephonic application process to obtain insurance coverage in March of 2022.
17. During this process, Appellant testified that she fulfilled all required steps and was assured by the Health Connector's representative that her application was complete and in order.
18. Upon a subsequent visit to her physician's office in October of 2022, she was confronted with information that her insurance coverage had not been activated.
19. The Appellant testified that she had not received any written confirmation of her application's successful processing from the Health Connector, a standard procedure expected to follow such transactions.
20. The Appellant testified that the absence of coverage was attributable to a clerical oversight, for which she bears no responsibility and, as such, contends that she should not incur any penalties due to this discrepancy.
21. The Appellant contacted the Health Connector seeking to correct her eligibility status. She was told she did not qualify for a special enrollment period.
22. Unhappy with this administrative decision, the Appellant has filed this appeal asking for her eligibility to be reconsidered given her personal situation.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to her testimony.

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

## CONNECTOR APPEALS UNIT



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 for 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 had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$880.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by her employer was \$880.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$321.35 per month. The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 26.01% of the employee's income.

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance

## CONNECTOR APPEALS UNIT



premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

The Appellant's employer's health coverage is not considered affordable as it exceeds 9.5% of the Appellant's household income, specifically being 26.01%% of the Appellant's household income. Based on this, the Appellant may be eligible for ConnectorCare plans.

Because the Appellant's Income was 222% of the Federal Poverty Level, assuming she met all other requirements, based on her income, she is ruled to be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for subsidized coverage under ConnectorCare.

It's also of note that the Appellant would not be eligible for Advance Premium Tax Credits, as her income does not exceed 300% of the FPL. Advance Premium Tax Credits (APTCs) and ConnectorCare plans are both health insurance assistance programs offered through the Health Connector, tailored to different income levels.

APTCs are available for households with incomes above 300% of the Federal Poverty Level (FPL), providing tax credits to reduce monthly health insurance premiums based on the individual's financial needs. These credits can be applied to a variety of Health Connector plans, excluding Catastrophic coverage.

In contrast, ConnectorCare plans cater to households with incomes at or below 300% FPL. These plans offer a choice of up to four different health plans depending on the location, with consistent benefits across all types but varying costs and provider networks. While APTCs provide a wider range of plan options with variable benefits and costs, ConnectorCare plans focus on offering uniform benefits with costs and plan choices that vary based on income and location.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$40,592.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$167.44 per month; according to Table 4, Appellant, who was 45 years old in 2022, lived in Berkshire County and filed her 2022 Massachusetts taxes as a Head of the Household with 1 dependent, would have had to pay \$951.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

## CONNECTOR APPEALS UNIT



Considering the Appellant's gross income (\$3,382.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$167.44 per month), private health insurance with a premium of \$951.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables)

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since the Appellant is eligible for ELIGIBLE for Plan Type 3A in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,861.00. With a monthly difference of \$962.64 between income and expenses, it appears that affording a healthcare plan should be manageable.

### Appellant's responsibility Under the Individual Mandate Law

The Appellant has requested a waiver, attributing her inability to secure affordable health care coverage to what she considers clerical mistakes made by the Health Connector. For the Appellant's request to be considered, she must provide clear and credible evidence demonstrating that these administrative errors were a significant barrier to her purchasing affordable health insurance. In accordance with 956 CMR 6.08 (3), if the Appellant can substantiate her claims, the possibility of granting a waiver exists. This regulation requires the Connector to review any presented reasons an Appellant believes prevented her from affording insurance that meets the minimum creditable coverage standards.

Under the compulsion of G.L.c. 111M, § 2, commonly referred to as the "individual mandate," every adult resident of Massachusetts is obligated to secure insurance coverage when it is deemed affordable by the criteria established by the Commonwealth Health Insurance Connector Authority's board of directors. The Appellant, according to her own testimony, was cognizant of this mandate.

In her testimony, the Appellant credibly ascribed part of her failure to obtain coverage to an administrative oversight by the Health Connector. I credit that she contacted the Health Connector in March of 2022 to try and sign up for health insurance. Her

## **CONNECTOR APPEALS UNIT**



assertion that she engaged with the Health Connector telephonically to expedite her application bears weight.

Nevertheless, her account merits careful examination. Her own correspondence discloses a timing discrepancy: "In March of 2022 I call(sic) the health connector..." This communication occurred after the Health Connector's open enrollment period had concluded on January 23, 2022. Hence, by her own acknowledgment, she did not engage with the Health Connector within the prescribed time frame. In her testimony, the Appellant overlooked this critical detail and did not address the implications of her late action in March, casting doubt on the veracity of her statements for this hearing.

The Appellant's explanation for her inability to apply online was insufficiently substantiated and diminished in credibility upon further scrutiny. Despite professing extensive prior experience with Health Connector insurance, it is perplexing—and indeed, remiss—that she did not persistently pursue confirmation of her coverage, a protocol she should have been well-acquainted with, once she supposedly “signed up in March of 2022,” per her testimony. The evidence suggests that the Appellant reached out to the Health Connector in March, at which juncture she was apprised that the open enrollment period for the year 2022 had concluded, and as such, she was not eligible for a Special Enrollment Period under the prevailing regulations at that time.

Moreover, the Appellant's references to her infrequent need for medical attention, as a basis for contesting the tax penalty, reflects a misunderstanding of the fundamental principles of insurance and shared healthcare costs. The contention that infrequent utilization of healthcare services obviates the responsibility to maintain insurance under the mandate is a misjudgment; the unpredictable nature of health emergencies underscores the prudence of continuous coverage.

The Appellant's actions—or lack thereof—post-enrollment period do not bespeak the diligence required. She missed the critical opportunity to enroll, attempted to obtain a Special Enrollment Period but was deemed ineligible, which she confirmed in her testimony, and there is no indication of an attempt to explore her options through the Office of Patient Protection, which might have exemplified a conscientious effort to comply with the mandate.

In light of these findings, I am inclined to conclude that the Appellant's lack of due diligence contributed to her noncompliance. While there is some merit to her claim of a clerical error by the Health Connector, her own inaction cannot be overlooked. Therefore, while I am disinclined to impose the full penalty, neither will I grant full absolution. The Appellant is hereby reminded of her responsibility to not only obtain but also diligently maintain health insurance coverage as mandated by law, a responsibility which, based on her testimony, was not met in the year 2022.

# **CONNECTOR APPEALS UNIT**



## Conclusion

Upon review, the Appellant's lack of due diligence has contributed to her noncompliance with the insurance mandate. Although there may have been a clerical error by the Health Connector, her inaction is significant. Thus, while the full 12-month penalty seems excessive, complete absolution is not warranted. The Appellant must remember her duty to actively maintain mandated health coverage, which she did not fulfill in 2022. Therefore, a partial three (3) month penalty is upheld.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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:        3

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 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: July 14, 2023

Decision Date: Thursday, July 27, 2023

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**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 July 14, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1:   Appeals Case Information from Schedule HC                   1 page
- Exhibit 2:   Appellant’s Statement of Grounds for Appeal                   2 Pages
- Exhibit 3   Correspondence from the Appellant                           1 page

# **CONNECTOR APPEALS UNIT**



## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 27 years old in 2022. Appellant filed her 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$45,728.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 336% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2022, as an Operational Support Administrator and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony).
6. The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$135.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of July of 2023. (Appellant's Testimony)
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$45,728.00 was deemed able to pay \$283.89 per month for health insurance, or 7.45% of her income. According to Table 4, Appellant, age 27 and living in Middlesex County, could have purchased private insurance for \$277.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year.



## **CONNECTOR APPEALS UNIT**



12. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof;(Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
15. Transitioning from her role as an independent contractor to an employee within the same organization, the appellant was unknowingly operating without valid health insurance coverage, as evidenced in her testimony.(Appellant's Testimony).
16. The realization of this lapse did not occur until the receipt of unusually high medical bills in September 2022. (Appellant's Testimony).
17. Although the appellant was informed by the company to initiate enrollment in health insurance, she operated under the mistaken assumption that her prior coverage remained in effect and, thus, did not proceed with any new enrollment steps when notified. (Appellant's Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to their testimony.

## CONNECTOR APPEALS UNIT



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 for 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 had health insurance for 3 month(s) in 2022. She has been assessed a tax penalty for 6 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$135.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant did transition in their employment from an Independent Contractor to a Full-Time employee during 2022. (Appellant’s Testimony).

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by her employer was \$135.00 a month. An employer sponsored plan’s coverage is affordable for plan year 2022 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$362.01 per month.

The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent Appellant-employee’s projected household modified adjusted gross income.

# CONNECTOR APPEALS UNIT



## ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). Because the Appellant had access to affordable healthcare coverage through their employer, they were not eligible for ConnectorCare.

## Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$45,728.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$283.89 per month; according to Table 4, Appellant, who was 27 years old in 2022, lived in Middlesex County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,810.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$283.89 per month), private health insurance with a premium of \$277.00 per month was AFFORDABLE for the Appellant. (2021 Schedule HC Tables)

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Appellant's Claims of Inequity

The appellant argued that using the standard affordability guidelines in her case for the tax year in question would be unfair. However, the appellant did not claim or show any evidence of financial hardship that would justify an exemption. (Appellant's Testimony).

Instead the appellant testified that she only realized she didn't have insurance when she faced high medical bills in September 2022. (Appellant's Testimony). She believed that her insurance from when she was an independent contractor would continue after she became a full-time employee. (Appellant's Testimony). This misunderstanding

# CONNECTOR APPEALS UNIT



was clarified when she received an unexpected medical bill. (Appellant’s Testimony).

The appellant also mentioned that she did receive a notice from her employer about signing up for new insurance, but she misunderstood it as a general reminder for open enrollment, not something specific to her change in job status. (Appellant’s Testimony).

Based on these facts, it appears that the appellant's lack of insurance coverage was an honest mistake, not a deliberate action. Under 956 CMR 6.08 (3), I find that the other circumstances described stopped the Appellant from obtaining affordable Employer-Sponsored Insurance coverage that would have met minimum creditable coverage requirements. In light of those considerations, I find that waiving the tax penalty in this instance would be fair and reasonable.

## Conclusion

Based on the circumstances described above, I agree with the appellant's statement of grounds for appeal, mainly that it would be inequitable under the circumstances to apply the affordability tables to her and overturn her penalty given the circumstances.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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:        6                      Number of Months Assessed:        0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

## **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

## **CONNECTOR APPEALS UNIT**



cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 21, 2023

Decision Date: Friday, December 1, 2023

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### 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 21, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page

## CONNECTOR APPEALS UNIT



- Exhibit 4 Health connector website print out indicating that the user was not able to log into his application because he had another active application in the system. (No Date) 1 page
- Exhibit 5 Country bank, checking account statements, dated 1/1/2022-1/31/2022, 5/1/2022-5/31/2022, 10 Pages

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 23 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$46,364.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 341% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) through the Health Connector.
4. In 2022, the Appellant was employed as a Manager at Disc Golf Facility in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does not currently have Health Insurance as of November of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$46,364.00 was deemed able to pay \$287.84 per month for health insurance, or 7.45% of his income. According to Table 4, Appellant, age 23 and living in Worcester County, could have

# CONNECTOR APPEALS UNIT



purchased private insurance for \$277.00 per month.

10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$600.00	<u>Car Insurance</u>	\$215.00	<u>Medical/Dental</u>	\$100.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$132.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$50.00	<u>Food</u>	\$660.00	<u>Credit Cards</u>	
<u>Heat</u>	\$115.00	<u>Cell Phone</u>	\$60.00	<u>Other:</u>	
<u>Electricity</u>	\$50.00	<u>Household &amp; Toiletries</u>	\$25.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$2,240.33

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,863.67. His necessary expenses were determined to be \$2,240.33 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$934.44 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation. (Testimony of Appellant, Exhibit 2).

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.



## **CONNECTOR APPEALS UNIT**



14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. Appellant provided testimony detailing the substantial hurdles encountered while attempting to apply for health insurance through the Massachusetts Health Connector.
17. The appellant described encountering persistent technical issues that precluded the successful submission of an application online, as well as through conventional mail services.
18. Throughout the testimony, it was evident that the appellant had made several attempts to communicate with the Massachusetts Health Connector in order to address the complications experienced with multiple applications. (Appellant's Testimony and Exhibit 4). The details provided during the testimony reflect the appellant's efforts to obtain health insurance and the subsequent challenges faced within the system.
19. The appellant was eventually quoted a monthly insurance premium of \$250 for a plan under Tufts Health Plan, which primarily offered coverage for catastrophic health events. (Appellant's Testimony).
20. Given the limited scope of this coverage, the appellant expressed that the cost of the premium was not justifiable, particularly when considering the additional out-of-pocket expenses for general or urgent healthcare services that the plan did not cover.
21. The Appellant testified that he had undertaken a search for alternative health insurance options on the private market. However, the appellant implied that this search might not have been exhaustive, which could have affected the outcome of finding a suitable and affordable plan.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

## CONNECTOR APPEALS UNIT



G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

The Appellant has testified that they were not offered health insurance by his employer. Neither his testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets the minimum value can disqualify you from

## CONNECTOR APPEALS UNIT



getting a tax credit to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The appellant's employer did not offer health insurance to the Appellant. (Appellant's Testimony).

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant may be eligible for Advance Premium Tax Credits (APTCs), but based on his income, wouldn't have been eligible for a ConnectorCare plan.

APTCs are federal tax credits used immediately to lower monthly health plan premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since their income is between 300% and 400% of the Federal Poverty Level, and they do not have access to affordable employer health coverage.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$46,364.00, was deemed not to have been able to afford health insurance on the private market.

According to Table 3, Appellant could have afforded to pay \$287.84 per month; according to Table 4, Appellant, who was 23 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$3,863.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$287.84 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

## CONNECTOR APPEALS UNIT



There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,240.33. With a monthly difference of \$934.44 between income and expenses, and considering above referenced cost for private market health insurance, \$277 per month, it appears that affording a healthcare plan should be manageable for the Appellant.

### Appellant's responsibility Under the Individual Mandate Law

The Appellant has requested a waiver, partially attributing his inability to secure affordable health care coverage to what he considers clerical or technical mistakes made by the Health Connector. For the Appellant's request to be considered, he must provide clear and credible evidence demonstrating that these administrative errors were a significant barrier to her purchasing affordable health insurance. In accordance with 956 CMR 6.08 (3), if the Appellant can substantiate his claims, the possibility of granting a waiver exists. This regulation requires the Connector to review any presented reasons an Appellant believes prevented her from affording insurance that meets the minimum creditable coverage standards.

In this appeal, the Appellant acknowledged that subsequent to encountering initial technical difficulties with the Health Connector and deciding to terminate his catastrophic coverage due to cost concerns and perceived inadequacy of coverage, he did not pursue further reasonable measures to secure health care coverage. While acknowledging the existence of the individual mandate, the Appellant's cessation of efforts appears to stem partly from his challenges with the Health Connector's administrative processes and partly from his own limited efforts to seek alternative health care coverage. This combination of factors contributes to his decision not to maintain health care coverage.

Upon careful consideration, I have determined that the Appellant's penalty should be reduced, though not entirely waived. The Appellant provided credible testimony and evidence indicating that his application was impeded due to an error in the system, which is acknowledged. However, it is also evident that the Appellant was aware of the requirement to have health insurance to avoid a tax penalty, yet he did not exhaust all reasonable avenues to rectify the administrative issue. This includes not visiting a

## **CONNECTOR APPEALS UNIT**



local Health Connector office, not contacting the Office of Patient Protection, and not pursuing any special enrollment period options.

Additionally, the Appellant conceded that he did not make sufficient efforts to obtain coverage in the private market after finding the Catastrophic health insurance too costly for the coverage provided. While the Health Connector's application process presented challenges for the Appellant, it is clear that there were several other steps he could have undertaken to address these difficulties and to secure affordable health insurance that meets minimum creditable coverage standards.

### **Conclusion**

In reviewing the case, it is noted that the Appellant has not shown a financial hardship as defined under the relevant law (see 956 CMR 6.08(1)(e)). However, it is evident that an error on the part of the Health Connector played a role in hindering the Appellant's ability to secure affordable coverage through the Health Connector. At the same time, the evidence also indicates that the Appellant's insufficient efforts following this error contributed to his lack of coverage in 2022. In light of these findings, the initial 12-month penalty imposed on the Appellant is hereby reduced to a three-month penalty.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:           3

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 2022.

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

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

# CONNECTOR APPEALS UNIT



Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-953

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

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** November 28, 2023

**Decision Date:** February 10, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 28, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 25, 2023 with letter in support, letter from employer, and 2022 1099HC attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated October 20, 2023 for November 28, 2023 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 32 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County in 2022. The appellant lived with her partner's parent (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$34,660 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from January through March, 2022. She had coverage under her partner's employer-sponsored insurance. Appellant lost this coverage when her partner changed jobs (Testimony of Appellant, Exhibits 1 and 2).
5. Appellant had the same job all of 2022. Appellant was offered health insurance through her job. Since Appellant had other coverage, Appellant did not enroll in her job's plan during the open enrollment period, October through November, 2021. When Appellant lost her coverage at the end of March, 2022, she did not realize she

could enroll in another plan if she acted within 60 days. She thought she had to wait until the next open enrollment period (Testimony of Appellant).

6. Appellant enrolled in her employer's plan in the fall of 2022. Her coverage was effective January 1, 2023 (Testimony of Appellant).

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

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

9. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$34,660 could afford to pay \$144 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Hampden, could have purchased insurance for \$295 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

13. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2022: rent, electricity, heat-\$0.00; telephone-\$88; internet-\$0.00; food, household items, and personal care items-\$820; car insurance-\$200; gas-\$110; car payments-\$275; clothing-\$275 (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 2022 should be waived, either in whole or in part.

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



financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance that met the Commonwealth's minimum creditable coverage standards from January through March, 2022. Since Appellant is entitled to a three-month grace period after losing coverage, Appellant has been assessed a penalty for six months, July through December. The appellant has appealed the assessment. See Exhibits 1, 2; Massachusetts General Laws, Chapter 111Mm Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$34,660 could afford to pay \$144 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Hampden County, could have purchased insurance for \$295 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program based upon income. The appellant's annual Federal Adjusted Income was \$34,660, less than the income limit for one person (\$38,640). See the testimony of the appellant which I find to be credible, Exhibit 2, 956 CMR 12.00 et. seq., and Table 2 of Schedule HC for 2022.

Appellant was offered health insurance through her job. During the open enrollment period at the end of 2021, she did not enroll because she already had coverage under her partner's plan. Once she lost her coverage at the end of March, 2022, Appellant assumed that she had to wait until the next open enrollment period at work. She was unaware that she could obtain coverage through the Connector or through her job if she acted within 60 days of losing her coverage. See the testimony of the appellant which I find to be credible. See also 45 CFR Sec. 155.420.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program based upon income, or through employment, 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 monthly expenses for basic necessities in 2022: : rent, electricity, heat-\$0.00; telephone-\$88; internet-\$0.00; food, household items, and personal care items-\$820; car insurance-\$200; gas-\$110; car payments-\$275; clothing-\$275. See the testimony of appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$34,660, or about \$2,800 a month before taxes. Appellant's expenses amounted to about \$1,800 each month. Based upon these figures, I find that for the appellant the cost of purchasing health insurance would not have caused her to experience a serious deprivation of basic necessities. In addition, Appellant did not meet any other criteria for financial hardship pursuant to 956 CMR 6.08(1)(a, b, d) or 6.08(3). I do take into consideration, however, that the appellant wanted to have coverage but thought she had to wait until the next open enrollment period. As soon as the next period, she enrolled in her employer's plan with an effective start date of January 1, 2023. I also note that Appellant lost the coverage she had at the beginning of the year through no fault of her own. She was covered by her partner's plan. The partner changed jobs and lost the coverage, affecting Appellant also. Based on the facts and determinations, Appellant's penalty is waived in full.

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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

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

Cc: Connector Appeals Unit

Hearing Officer

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 8, 2023

Decision Date: December 27, 2023

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### 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 8, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Health Connector Website Print Out, dated 4/3/2023	1 page

# CONNECTOR APPEALS UNIT



Exhibit 4	Membership Website, details unknown	1 page
Exhibit 5	Payment Ledger, Unknown Company or Association	1 page
Exhibit 6:	Statute Print Out, dated 6/9/2010	24 pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$47,543.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 350% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2022, the Appellant was Self Employed as an Audio Engineer in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant does currently have Health Insurance as of December of 2023. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$47,543.00 was deemed able to pay \$301.10 per month for health insurance, or 7.60% of his income. According to Table 4, Appellant, age 25 and living in Worcester County, could have purchased private insurance for \$277.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for

# CONNECTOR APPEALS UNIT



2022).

10. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$850.00	<u>Car Insurance</u>	\$333.33	<u>Medical/Dental</u>	\$32.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$100.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$35.00	<u>Food</u>	\$300.00	<u>Credit Cards</u>	
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$0.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$50.00	<u>Household &amp; Toiletries</u>	\$50.00		
<u>Car</u>	\$350.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$2,187.83

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,961.92. His necessary expenses were determined to be \$2,187.83 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,058.66 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

12. Appellant's statement of grounds for appeal was on the basis of:

a. The appellant is appealing based on his understanding that participating in a healthcare ministry would qualify him for a religious exemption from the Health Connector's insurance requirement. The Appellant did not select a specific ground for appeal in his statement of grounds form. (Testimony of Appellant, Exhibit 2).

13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



14. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The appellant indicated that a friend had informed him that he may qualify for a religious exemption from the Health Connector if he paid into a health ministry. Believing this information, the appellant did not take any steps to engage with the Health Connector. (Appellant's Testimony).
16. However, upon needing dental care and a new primary care provider in the Spring of 2022, the appellant realized his costs would not be fully covered by his health Ministry Plan. (Appellant's Testimony). At that point, he decided to apply for coverage from the Health Connector during the next open enrollment period. (Appellant's Testimony).
17. While some religious exemptions are available for individuals with sincerely held beliefs who meet certain standards, the information provided suggests the appellant did not outright refuse health insurance due to his beliefs. Rather, he initially opted to participate in a health ministry based on second-hand information. Once he researched his options and costs independently, he chose to apply for coverage through the Health Connector. (Appellant's Testimony).
18. The Appellant also testified that affordability was a factor in his decision to go through the health ministry. He subjectively believed he could not afford health insurance, and thought the costs through the ministry would be lower. However, upon further research, he determined the Health Connector would in fact be more affordable for his needs.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance

## CONNECTOR APPEALS UNIT



policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer, as he was self employed. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Being self employed, the Appellant was not disqualified from applying to the Health Connector in light of affordable coverage offered by an employer. However, the Appellant does not qualify for ConnectorCare as his income is more than 300% of the Federal Poverty Limit. In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less.

For tax year 2022, the Appellant may be eligible for Advance Premium Tax Credits (APTCs). APTCs are federal tax credits used immediately to lower monthly health plan premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your

## CONNECTOR APPEALS UNIT



expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since his income is between 300% and 400% of the Federal Poverty Level, and they do not have access to affordable employer health coverage.

### Appellant's Engagement with the Health Connector

The testimony indicates that the appellant did not apply for health coverage through the Health Connector in tax year 2022, despite being aware of the individual mandate requirement to maintain qualifying health insurance. Instead of conducting due diligence by researching plans on the Health Connector, the appellant relied on informal advice from a friend who suggested participating in a health ministry to potentially reduce costs. (Appellant's Testimony).

By the appellant's own account, he did not confirm whether the health ministry met minimum creditable coverage standards, trusting his friend's word that he would be "all set." (Appellant's Testimony). As testified, this friend had no documented expertise in health care policy or accounting. (Appellant's Testimony).

Importantly, there is also no evidence that sincerely held religious beliefs were the basis for choosing the health ministry. Rather, the statements suggest affordability was the primary factor, with the appellant testifying he viewed its rates as "much cheaper" than the Health Connector's. (Appellant's Testimony).

### Religious Exemption

The appellant testified that when filing his taxes through TurboTax in 2022, he did not inform the Commonwealth that he was claiming a religious exemption from the health insurance requirement. (Appellant's Testimony). Appellant's actions did not follow the connector's regulations for claiming such an exemption. See 830 CMR 111M.2.1(6)(A)<sup>2</sup>. He believed that participating in the healthcare ministry would exempt him from any tax penalty. (Appellant's Testimony).

Massachusetts law does provide a religious exemption from the mandate to maintain health insurance coverage when an individual holds sincere religious beliefs that would cause them to object to substantially all potential medical treatments covered by insurance. However, the exemption is intended for situations where insurance would offer little meaningful benefit. It may not apply to individuals who would still seek certain common treatments like setting a broken bone, but object to specific procedures like blood transfusions. See 830 CMR 111M.2.1(6)(B).

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<sup>2</sup><https://www.mass.gov/regulations/830-CMR-111m21-health-insurance-individual-mandate-personal-income-tax-return-requirements>



## CONNECTOR APPEALS UNIT



Nothing in the Appellant's testimony provided credible evidence that sincere religious beliefs, which would cause him to object to substantially all potential medical treatments covered by insurance, was the basis for the requested exemption. (Appellant's Testimony). Rather, based on the hearing, it appears that cost was the primary consideration.

The scope of what constitutes a sincerely held religious objection that renders health insurance non-beneficial is complex and personal in nature. However, factual circumstances that cast serious doubt on the sincerity of claimed beliefs may warrant further scrutiny, as is the case in this instance.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$47,543.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$301.10 per month; according to Table 4, Appellant, who was 25 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$3,961.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$301.10 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market and the Health Connector, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,187.83. With a monthly difference of \$1,058.66 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$277.00 per month, it appears that affording health insurance is feasible for the Appellant.

# **CONNECTOR APPEALS UNIT**



## **Conclusion**

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 12-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:        12

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 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

# **CONNECTOR APPEALS UNIT**



## **FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 8, 2023

Decision Date: December 27, 2023

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### **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 8, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

# CONNECTOR APPEALS UNIT



Exhibit 3 Correspondence from the Appellant

1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 40 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$29,117.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 214% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2022, the Appellant was initially employed as a Building Maintenance Engineer in a full-time capacity. (Appellant's Testimony). However, the Appellant experienced a period of unemployment during 2022 and was only employed in this position from September-December. (Appellant's Testimony).
5. The Appellant testified that they experienced periods of unemployment during the year 2022, and were employed during the following months: September-through the end of the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$200.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance, through his employer, as of December of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$29,117.00 was deemed able to pay \$101.91 per month for health insurance, or 4.20% of his income. According to Table 4, Appellant, age 40 and living in Middlesex County, could have purchased private insurance for \$318.00 per month.

# CONNECTOR APPEALS UNIT



10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,400.00	<u>Car Insurance</u>	\$230.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$250.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$100.00	<u>Food</u>	\$800.00	<u>Credit Cards</u>	
<u>Heat</u>	\$175.00	<u>Cell Phone</u>	\$50.00	<u>Other:</u>	
<u>Electricity</u>	\$80.00	<u>Household &amp; Toiletries</u>	\$50.00		
<u>Car</u>	\$130.00	<u>Clothing</u>	\$10.00	<u>Total:</u>	\$3,621.66

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,426.42. His necessary expenses were determined to be \$3,621.66 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$1,591.15 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation. (Testimony of Appellant, Exhibit 2).

14. 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

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## **CONNECTOR APPEALS UNIT**



providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant testified that he couldn't afford healthcare coverage after being laid off in August of 2021. He tried to inquire about the Health Connector's costs online, but what he found led him to believe that even though he was unemployed and making no income from January through September of 2022, he wouldn't have been able to afford healthcare coverage from the Health Connector.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 1 month(s) in 2022. He has been assessed a tax penalty for 8 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

# CONNECTOR APPEALS UNIT



## Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$200.00. (Appellant's Testimony) The Appellant testified that he experienced periods of unemployment during the year 2022, and was employed during the following months: September-through the end of the year 2022 (Appellant's Testimony). Based on the information provided by the Health Connector, the Appellant was penalized for the months between January and August, during his unemployment.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$200.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$230.51 per month. The employer's offering was 8.24% of the employee's income. However, in Massachusetts, health insurance costs above 8.0 percent of the Appellant-employee's projected household modified adjusted gross income are not considered affordable. See 2022 Schedule HC. Therefore, the appellant's Employer-Sponsored Insurance would not be a barrier to applying for ConnectorCare through the Massachusetts Health Connector.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer's health coverage exceeds 8.0% of their household income, it is considered unaffordable under the ConnectorCare guidelines. Therefore, the Appellant's access to employer-sponsored health insurance will not disqualify them from applying for coverage through the Health Connector.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2022, the Appellant would qualify for Plan Type

## CONNECTOR APPEALS UNIT



3A through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

### Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted.

Losing a job can be an incredibly difficult situation. However, it's important to know that there are options for health coverage, some at reduced or even \$0 premiums. If you enrolled through the Health Connector before with financial help paying premiums (Advanced Premium Tax Credits) and your income decreases due to job loss, reporting that change means the Health Connector can increase your tax credit, lowering monthly costs.

Additionally, if your new estimated household income after job loss falls under 300% of the Federal Poverty Level, updating it with the Health Connector may qualify you for their low cost ConnectorCare plans. And at under 133%, you may even be eligible for \$0 premium MassHealth coverage.

The takeaway is - if you lose your income source and need affordable health insurance, tell the Health Connector. Reporting it can open up options for coverage with premiums scaled to your current situation. And you'll still have access to urgently needed care and essential health benefits while getting back on your feet.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$29,117.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$101.91 per month; according to Table 4, Appellant, who was 40 years old in 2022, lived in Middlesex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$318.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.



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Considering the Appellant's gross income (\$2,426.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$101.91 per month), private health insurance with a premium of \$318.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since the Appellant was ELIGIBLE for Plan Type 3A in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,621.66. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$1,591.15. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 8 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:        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 2022.

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

## **CONNECTOR APPEALS UNIT**



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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.



# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 56 and 59 years old in the beginning of 2022. Appellants filed their 2022 Massachusetts tax return as Married Filing Jointly. The Appellants have no dependents (Exhibit 1).
2. Appellants lived in Barnstable County, MA in 2022 (Exhibit 1).
3. Appellants' Federal Adjusted Gross Income for 2022 was \$35,316.00 (Exhibit 1, Appellants' Testimony). Appellants' Income was 193% of the Federal Poverty level and based on their income, if all other conditions were met, they would be ELIGIBLE for Plan Type 2B (150.1-200% FPL) for ConnectorCare.
4. In 2022, appellant MC was employed as an Accounting worker for a Real Estate Firm, in a part-time capacity, and appellant DC as a Builder in a full-time capacity. (Appellants' Testimony).
5. The Appellants were employed for the full year and did not have any job disruptions during the year 2022.
6. Appellants were not offered health insurance by either of their employers. (Appellants' Testimony).
7. The Appellants do not currently have Health Insurance as of December of 2023. (Appellants' Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, the Appellants had no dependents, with an adjusted gross income of \$35,316.00 was deemed able to pay \$182.47 per month for health insurance, or 6.20% of their income. According to Table 4, Appellants, age 56 and 59 respectively, living in Barnstable County, could have purchased private insurance for \$869.00 per month.
10. Private insurance was UNAFFORDABLE for the Appellants in 2022 (Schedule HC for 2022).

# CONNECTOR APPEALS UNIT



11. In 2022, Appellants had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$0.00	<u>Car Insurance</u>	\$160.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$285.00	<u>Gas (Car)</u>	\$513.00	<u>Homeowners Insurance</u>	\$357.60
<u>Cable/Internet</u>	\$329.00	<u>Food</u>	\$440.00	<u>Water</u>	\$19.00
<u>Heat</u>	\$200.00	<u>Cell Phone</u>	\$50.00	<u>Car Repairs:</u>	\$463.85
<u>Electricity</u>	\$221.00	<u>Household &amp; Toiletries</u>	\$0.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$42.00	<u>Total:</u>	\$3,080.45

12. Upon examining the Appellants’ testimony, it was ascertained that their gross monthly income was \$2,943.00. their necessary expenses were determined to be \$3,080.45 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$621.17 in their monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellants’ statement of grounds for appeal was on the basis of:

a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14.Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellants’ Testimony. To present a more accurate picture of the Appellants’ financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellants purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellants’ annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



15. Appellants did not fall more than thirty days behind in rent payments in 2022. Appellants did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellants' testimony. (Testimony of Appellant)
16. The appellant historically held the belief that the cost of health insurance was excessively high. In 2022, there was no initiative taken by the appellant to reassess the cost of health insurance or to explore their eligibility for more affordable options through the Health Connector. (Appellants' Testimony).
17. This belief was partly informed by the Appellants' past experience working in a chiropractic office, where they regularly dealt with insurance matters, leading them to the conclusion that health insurance was unaffordable. (Appellants' Testimony).
18. Additionally, the appellants contended that since they rarely utilized medical services, they should not be required to pay for health insurance, assuming they could cover any medical expenses out-of-pocket if necessary. (Appellants' Testimony).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellants were aware of the individual mandate, according to her testimony.

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

Appellants had no health insurance in 2022. They have been assessed a tax penalty for 12 months. They appealed the assessment. See Exhibits listed above. To determine

## CONNECTOR APPEALS UNIT



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 Appellants through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellants' Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer, nor was her husband. (Appellants' Testimony). The Appellants were employed for the full year and did not have any job disruptions during the year 2022. (Appellants' Testimony). The Appellants were assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellants. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellants were eligible for a ConnectorCare plan with \$0 or low monthly premiums, low out-of-pocket costs, and no deductibles. Their income is 193% of the Federal Poverty Level. Based on this, they may qualify for Plan Type 2B. To qualify, the Appellants must also live in Massachusetts, be a U.S. citizen or lawfully present immigrant, not have affordable employer insurance, not be incarcerated, and not qualify for Medicare or MassHealth.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2022, the Appellants would qualify for Plan Type 2B through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 2B is \$47.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellants are not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

### Appellants' Engagement with the Health Connector

## CONNECTOR APPEALS UNIT



The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. (Appellants' Testimony).

The Appellant testified that she and her husband believed they don't need to pay for health insurance, especially when it's so expensive, when they themselves don't get sick. (Appellants' Testimony). In the context of the Massachusetts individual mandate law, it is imperative to address a common misconception regarding the use of health insurance. The argument that one does not require health insurance because of their current state of health overlooks the fundamental principle of the mandate. Health, by its very nature, is unpredictable, and the absence of illness today does not guarantee continued well-being in the future.

The Massachusetts individual mandate law is designed not as a reflection of one's current health status, but as a safeguard for all citizens, ensuring that they have access to necessary medical care when the need arises. It is important to recognize that health insurance is a critical tool in this protective framework, serving to provide security and peace of mind to individuals regardless of their current health. The assertion of not needing health insurance due to good health fails to acknowledge this broader perspective and the inherent unpredictability of medical needs.

I encourage the Appellant to take the Massachusetts individual mandate law seriously and to proactively explore health insurance options available through the Health Connector. Engaging with these resources is not only a step towards compliance with the law but also a prudent measure to ensure personal and financial well-being. By securing appropriate health coverage, the Appellant can avoid the imposition of additional tax penalties and gain the assurance of being protected in the event of unforeseen medical needs. It is in the Appellants' best interest to consider the long-term benefits of health insurance, not just as a legal requirement, but as a wise investment in their health and financial security.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellants on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$35,316.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$126.55 per month; according to Table 4, Appellant, who was 56 years old in 2022, lived in Barnstable County and filed her 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$869.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.



# CONNECTOR APPEALS UNIT



Considering the Appellants' gross income (\$2,943.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$126.55 per month), private health insurance with a premium of \$869.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellants were eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since the Appellants were eligible for ELIGIBLE for Plan Type 2B in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

Appellants have demonstrated a financial hardship. The Appellants testified that in 2022 they incurred basic monthly expenses of approximately \$3,080.45. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$621.17. In such circumstances, it would be unfair to expect the Appellants to make an additional expenditure for health insurance.

## Conclusion

The Appellants have demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellants' 12 month penalty is therefore waived.

Appellants should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 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 2022.

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

## **CONNECTOR APPEALS UNIT**



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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellants may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.



# CONNECTOR APPEALS UNIT



- Exhibit 5 Correspondence from Harvard Pilgrim Insurance, dated 4/7/22 1 page
- Exhibit 6: Correspondence from the Office of Patient Protection, dated 4/21/2022 1 page
- Exhibit 7: Correspondence from Harvard Pilgrim Insurance, dated 5/2/22 1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Married Filing Jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Joint Federal Adjusted Gross Income for 2022 was \$108,537.00 (Exhibit 1, Appellant's Testimony). Appellant's Joint Income was 593% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as an Auto Mechanic at a Small Family Business in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer in 2022. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of December of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$108,537.00 was deemed able to

## CONNECTOR APPEALS UNIT



pay \$723.58 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 26 and living in Worcester County, could have purchased private insurance for \$554.00 per month.

10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year. (Appellant's Testimony).
12. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is inequitable. (For example, because of family size); that you were unable to obtain government subsidized insurance, even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The appellant believed he was covered under his father's insurance plan through the family auto mechanic business. At the start of 2022, his father was transitioning his insurance from his prior Employer-Sponsored Insurance, Fallon Health, to coverage through the appellant's mother's employer. (Appellant's Testimony).
16. In March 2022, the appellant received notice from Fallon that his health coverage had been canceled effective December 31, 2021. (Appellant's Testimony and Exhibit 4).
17. Upon learning this, the appellant promptly contacted the Office of Patient Protection and received approval on April 21, 2022 for a special enrollment waiver to obtain alternative non-group coverage. He then obtained new health insurance beginning in May 2022. (Appellant's Testimony and Exhibits five (5))

# CONNECTOR APPEALS UNIT



and 6).

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had health insurance for 7 month(s) in 2022. He has been assessed a tax penalty for 2 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer in 2022. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 2 months based on their lack of coverage over 5 months. The penalty was not levied in light of any period of unemployment for the Appellant.

The Appellant has testified that they were not offered health insurance by their employer, something they discovered via correspondence from FallonHealth in March of 2022. See Exhibit 4. Employer-Sponsored Insurance from Fallon ceased on

## CONNECTOR APPEALS UNIT



12/31/2021. See Exhibit 4. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance in 2022. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

Massachusetts residents may be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). The Appellant is not eligible for ConnectorCare as his joint income is more than 400% of the Federal Poverty Limit.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Given this information, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

Because the Appellant's joint Income was 593% of the Federal Poverty Level, he is ruled to be INELIGIBLE based on income for subsidized coverage under ConnectorCare.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$108,537.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$723.58 per month; according to Table 4, Appellant, who was 26 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$554.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and

## CONNECTOR APPEALS UNIT



4, and Exhibit 1.

In light of the Appellant's gross income (\$9,044.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$723.58 per month), the Appellant could have afforded private health insurance with a premium of \$554.00 per month. (2022 Schedule HC Tables)

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Appellant's Claims of Inequity

The appellant is attempting to argue that applying the affordability tables to them in the above reference tax year would have been inequitable. The appellant testified that he was covered under his father's insurance plan through the family auto mechanic business at the start of 2022. (Appellant's Testimony). However, at the start of 2022, his father was transitioning his own Employer-Sponsored Insurance, from the business's insurance from Fallon Health to coverage through the appellant's mother's employer.

In March 2022, the appellant received notice from Fallon that his health coverage had been canceled effective December 31, 2021. Upon learning this, the appellant promptly contacted the Office of Patient Protection and received approval on April 21, 2022 for a special enrollment waiver to obtain alternative non-group coverage. He then obtained new health insurance beginning in May 2022. (Appellant's Testimony).

In this case, it's clear that when the appellant found out in March 2022 from Fallon Health that his employer-provided health insurance was canceled, he immediately took action to address the lack of health coverage. The key question here is why Fallon Health informed him in March that his coverage had already been canceled three months earlier. It's important to note that the appellant is not at fault in this situation. He has provided sufficient evidence showing that he was only notified by Fallon Health in March 2022 about his lapsed coverage.

According to rule 956 CMR 6.08 (3), which allows for consideration of other circumstances where an individual could not afford health insurance meeting certain standards, the primary reason the appellant didn't have proper coverage was due to Fallon Health not informing him in time to allow him to sign up during an open enrollment period. In fact, in his testimony, which I credit, the Appellant wasn't even made aware of the lapse of coverage until he received the correspondence from Fallon Health in March of 2022. See Exhibit 4. The Connector is obligated to take into



# CONNECTOR APPEALS UNIT



account various other reasons or conditions that an Appellant may present, showing that they were unable to obtain health insurance that meets the minimum standards of coverage. This consideration extends beyond mere affordability, encompassing any relevant factors that could have hindered the Appellant from securing appropriate health coverage. Therefore, the tax penalty for the appellant is waived.

## Conclusion

In conclusion, after careful consideration of the evidence and the regulations outlined in 956 CMR 6.08 (3), it is determined that the appellant's lack of timely notification from Fallon Health about the cancellation of his employer-sponsored insurance is the principal factor contributing to his inability to secure adequate health coverage. Therefore, acknowledging his proactive efforts upon receiving late notice and in light of the circumstances, the decision is made to waive the appellant's tax penalty. This decision reflects both the adherence to regulatory guidelines and an understanding of the unique situation faced by the appellant.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:            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 2022.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find

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out if he is eligible for assistance in obtaining health insurance.

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## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 12, 2024      Decision Date: Wednesday, January 31, 2024

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### 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 12, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

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Exhibit 3	Correspondence from the Appellant	1 Page
Exhibit 4	Massachusetts Health Connector payment statement, invoice date May 23rd 2023	1 Page
Exhibit 5	Liberty Gas payment invoice, Bill date April 24th 2023	1 Page
Exhibit 6:	National grid Final disconnection notice, dated April 17th 2023	1 Page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$51,659.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 380% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Program Coordinator at a Non-Profit in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does currently have Health Insurance as of January of 2024. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$51,659.00 was deemed able to

# CONNECTOR APPEALS UNIT



pay \$344.39 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 33 and living in Bristol County, could have purchased private insurance for \$290.00 per month.

- 10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
- 11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$900.00	<u>Car Insurance</u>	\$135.00	<u>Medical/Dental</u>	\$100.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$132.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$150.00	<u>Food</u>	\$912.50	<u>Car</u>	\$0.00
<u>Heat</u>	\$125.00	<u>Cell Phone</u>	\$55.00	<u>Clothing</u>	\$20.00
<u>Electricity</u>	\$225.00	<u>Household &amp; Toiletries</u>	\$100.00		
				<u>Total:</u>	\$3,021.50

- 12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,304.92. His necessary expenses were determined to be \$3,021.50 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$475.38 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
- 13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; and

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## **CONNECTOR APPEALS UNIT**



- b. During 2022 the appellant received a shut off notice; were shut off; or were refused delivery of essential utilities. Shut off or delivery refusal must be for essential services only. Provide a copy of the shut off notice, not a late notice, or other similar correspondence from the utility company.(Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant was not homeless and did fall more than thirty days behind in rent payments in 2022. (Appellant’s Testimony). Appellant did receive shut-off notices for basic utilities. However, the Appellant failed to provide evidence which was clear and convincing of these circumstances having occurred in 2022 during the Appellant's testimony. (Testimony of Appellant, Exhibit(s) 5 and 6).
16. The appellant testified that he was unaware of the open enrollment period for obtaining health insurance in 2022. He attempted to apply in February 2022, after open enrollment had ended, and learned he could no longer enroll at that time.
17. The appellant stated that he did not contact the Health Connector or the Office of Patient Protection because he was unaware that he could request a special enrollment period. He testified that he eventually obtained insurance for 2023 through the Health Connector at the end of 2022, and currently has active coverage.
18. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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

## CONNECTOR APPEALS UNIT



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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you

## CONNECTOR APPEALS UNIT



from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). In this specific appeal, the appellant would not be blocked from purchasing health insurance from the Health Connector in light of the fact that he was never offered Employer-Sponsored Insurance. In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. Here however, the Appellant does not qualify for ConnectorCare as his income is more than 300% of the Federal Poverty Limit but they may qualify for Advance Premium Tax Credits.

For tax year 2022, the Appellant may be eligible for Advance Premium Tax Credits (APTCs). APTCs are federal tax credits used immediately to lower monthly health plan premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since their income is between 300% and 400% of the Federal Poverty Level, and they do not have access to affordable employer health coverage.

### Appellant's Engagement with the Health Connector

The Appellant testified they applied through the Health Connector outside of the open enrollment period. In such cases, Massachusetts residents may qualify for a Special Enrollment Period (SEP) due to certain specific life events or loss of coverage. In cases where eligibility for a Special Enrollment Period (SEP) is not met, it is incumbent upon individuals to petition for a waiver from the Office of Patient Protection (OPP).

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$51,659.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$344.39 per month; according to Table 4, Appellant, who was 33 years old in 2022, lived in Bristol County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$290.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,304.92 per month), tax filing status, place



## CONNECTOR APPEALS UNIT



of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$344.39 per month), the Appellant could have afforded private health insurance with a premium of \$290.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Necessary Expenses

During the course of hearing, the Appellant expressed a deep frustration that Student Loans were not considered a necessary expense by the Health Connector. When determining financial eligibility for insurance subsidies, the Health Connector must consider what expenses are truly necessary for basic needs versus discretionary expenses. Necessary expenses include costs that are essential for an individual or family to meet their basic needs, such as housing, utilities, food, clothing, transportation to work or medical care, and childcare. These expenses cannot be avoided if someone is to have shelter, utilities, food, clothing, medical care, and a way to get to work or school.

In contrast, discretionary expenses are costs that represent choices, not essential needs. While continuing education is important, the choice to take out student loans represents a discretionary cost, not an unavoidable necessity like food or shelter. When reviewing financial eligibility for insurance subsidies, the Health Connector focuses on true necessities - not discretionary expenses that applicants choose to incur.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market and the Health Connector with APTCs, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,021.50. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$475.38. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

### Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would

## **CONNECTOR APPEALS UNIT**



have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1254

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 23, 2024

**Decision Date:** January 31, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page, dated 5/17/23).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's (DOR) assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant is a long-term employee of a small business that does not offer health insurance as a job benefit. Most of the other employees insure through their spouses, an option that is not available to the Appellant. In prior years the Appellant has paid the penalty assessed by the DOR without filing an appeal. The Appellant felt her financial situation for 2022 was such that she could not simply pay the penalty so she filed this appeal. Testimony. See also Exhibit 4.
3. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents (the Appellant has a young adult son who still lives with her). The Appellant's federal adjusted gross income (AGI) for 2022 was \$76,196. Exhibit 1.
4. The Appellant was 60 years old at the beginning of 2022 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
5. The Appellant's 2022 AGI (\$76,196) was more than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$508 per month -- for health insurance coverage in 2022. (The calculation is 8.00% multiplied by \$76,196 AGI = \$6,095.68 per year divided by 12 months = \$ 507.97 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$435 per month in 2022.
8. The Appellant has applied for health insurance coverage from MassHealth and the Health Connector without success. More recently the Appellant was quoted a health insurance premium of \$429 per month, which was more than the Appellant

felt she could pay. Testimony and Exhibit 4. Compare Findings of Fact, No. 7, above.

9. The Appellant is more than 30 days behind in her mortgage payments, and she has received collection notices from the mortgage holder that threaten foreclosure. On her current income the Appellant uses two weekly paychecks to pay her mortgage (\$2,047 per month, including taxes). This leaves approximately one-half of her income to cover her remaining living expenses. Testimony and Exhibit 4.
10. The Appellant is also behind in her gas and electricity utility services. She has received warning notices from Eversource but her service has not been shut off. Testimony and Exhibit 4.
11. The Appellant is finding her living expenses “so expensive” that she does not have extra money to purchase health insurance. Her living expenses include home insurance and car insurance in addition to gas and electric utilities and gasoline to drive to work. Testimony and Exhibit 4.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant’s long-term job does not offer her health insurance as a job benefit. In prior years she paid the penalty assessed by the DOR. This year (2022) she appealed the penalty assessment because she felt that she could not afford to pay the penalty.

The Appellant’s mortgage payments are the focus of this appeal. She is more than 30 days behind in her mortgage payments and has been threatened with foreclosure. The Appellant devotes two weekly pay checks to her mortgage, leaving two pay checks to cover all of her other living expenses. The Appellant has unsuccessfully sought health insurance coverage through the Health Connector (and MassHealth in the past).

After considering all the circumstances, I conclude that it is appropriate to waive all 12 months of the DOR penalty assessment. See 956 Code Mass. Regs. 6.08 (1) (a) (“more than 30 days in arrears in . . . mortgage payments”). See also 956 Code Mass. Regs. 6.08 (1) (e) (“[T]he Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**SEE MY RECOMMENDATION BELOW.**

**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 2022 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 2022.

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

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

complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. I understand that you have dealt with the Health Connector previously, and I encourage you to continue to do so. See [www.mahealthconnector.org](http://www.mahealthconnector.org) or Tel. 1-877-623-6765.

Let me add another source that you can use for advice and help. Health Care For All is a private non-profit organization outside the government. You can call its free consumer help line at 1-800-272-4232 or use its website at [www.hcfama.org](http://www.hcfama.org).

In January 2024 the Health Connector increased its financial eligibility standards so you may find that this makes a difference on a new application for health insurance.





Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1257

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 23, 2024

**Decision Date:** January 31, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Appellant’s Submission of Employer’s Benefit’s Agent Email (dated 5/12/23).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$59,771. Exhibit 1.
3. The Appellant was 31 years old at the beginning of 2022 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$59,771) was more than 300% of the federal poverty level (\$38,640 for a one-person person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$398 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$59,771 AGI = \$4,776.88 per year divided by 12 months = \$398.07 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$290 per month in 2022.
7. The Appellant was insured in 2021 under his former employer. Testimony and Exhibit 4.
8. On October 15, 2021, the Appellant started a new job. The new employer (a large, national company) offered the Appellant health insurance coverage as a job benefit after a 90 day wait period. Testimony and Exhibit 4. See also Exhibit 5.
9. There was confusion over the health insurance enrollment process -- that may have been in the process of change when the Appellant was a new employee -- which included how the step to enroll was taken and by whom (the employee or the employer) and the mailing of health insurance documents to the Appellant's parents' address, not to the Appellant. The consequence (without seeking to

determine who is correct, which is beyond the role of this penalty appeal) is that the Appellant missed the 90 day enrollment deadline. Testimony and Exhibits 4 and 5.

10. The Appellant pursued enrollment into his new employer's health plan. The employer (what appears to be the employer's benefits agent) informed the Appellant that his enrollment application was late and that it would not make any exception for health insurance enrollments after the 90 day wait period expired. Testimony and Exhibits 4 and 5.
11. The consequence was that the Appellant was not allowed to enroll in the employer's health plan in 2022.
12. The Appellant enrolled in his employer's health plan in the Fall 2022 at the next open enrollment period, with coverage starting in January 2023.
13. The Appellant was enrolled in the employer's health plan for all of 2023 (paying \$20 per week as the employee's share of the premium) and continuing into 2024. Testimony and Exhibit 4.
14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at

<http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case the Appellant made a good faith effort to enroll in his new employer's health plan for 2022. To place the issue in context, the Appellant was enrolled in his

former employer's health plan in 2021, and he has been insured under his new employer in 2023 and 2024 (to date).

The Appellant started a new job on October 15, 2021, and he sought to enroll in his new employer's health plan at the conclusion of the employer's (or insurer's) 90 day wait period for new employees (i.e., January 15, 2022, or February 2022). The enrollment at the end of the 90 day waiting period never took place, though the Appellant made multiple efforts to clarify the situation and enroll late.

The new employer (or its agent) was unbending. Accordingly, the Appellant had to wait until the new employer's next open enrollment period in Fall 2022. At that point the Appellant promptly enrolled with health insurance coverage beginning in January 2023. The Appellant continued to work for the new employer, and he was insured for all of 2023 and into 2024 (January 2024 when this appeal hearing took place).

Considering all the circumstances I will waive the entire penalty assessed by the DOR for 2022. The evidence establishes that the Appellant shifted to a new job that provided health insurance as a job benefit and that he made an effort to enroll in the health plan after the employer's 90 day wait period had ended. The Appellant also seized the next opportunity offered by the employer to enroll in its health plan for 2023.

**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 2022 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 2022.

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

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

complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit





# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 26, 2024      Decision Date: Wednesday, January 31, 2024

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### 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 26, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

# CONNECTOR APPEALS UNIT



Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	Monthly Statement, dated 5/15/2023	2 pages
Exhibit 5	Correspondence from Schreiber Law, LLC, dated 4/14/2023	1 page
Exhibit 6:	Wells Fargo Auto Loan Statement, dated 11/7/2021	1 page
Exhibit 7:	Wells Fargo Auto Loan Statement, dated 4/27/2023	1 page
Exhibit 8:	Wells Fargo Auto Loan Interest Correspondence, dated 5/10/2023	1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Head of Household. The Appellant has 1 dependent.
2. As the Appellant has a dependent, their affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC. (Exhibit 1).
3. Appellant lived in Plymouth County, MA in 2022 (Exhibit 1).
4. Appellant's Federal Adjusted Gross Income for 2022 was \$51,026.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 279% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 3B (250.1-300% FPL) for ConnectorCare.
5. In 2022, the Appellant was employed as a Office Manager at a Counseling Facility in a full-time capacity. (Appellant's Testimony).
6. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
7. Appellant was not offered health insurance by her employer.
8. The Appellant does currently have Health Insurance as of January of 2024. (Appellant's Testimony).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care

# CONNECTOR APPEALS UNIT



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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

10. According to Table 3 of Schedule HC for 2022, The Appellant has 1 dependent. As the Appellant has a dependent, their affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC., with an adjusted gross income of \$51,026.00 was deemed able to pay \$210.48 per month for health insurance, or 4.95% of her income. According to Table 4, Appellant, age 56 and living in Plymouth County, could have purchased private insurance for \$1,031.00 per month.
11. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
12. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,400.00	<u>Car Insurance</u>	\$95.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$35.00	<u>Food</u>	\$880.00		
<u>Heat</u>	\$60.00	<u>Cell Phone</u>	\$120.00		
<u>Electricity</u>	\$0.00	<u>Household &amp; Toiletries</u>	\$50.00	<u>Car</u>	\$653.00
<u>Child Care Costs</u>	\$0.00	<u>Car Insurance</u>	\$95.00	<u>Clothing</u>	\$25.00
				<u>Total:</u>	\$3,494.00

13. Upon examining the appellant's testimony, it was ascertained that her gross

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

monthly income was \$4,252.17. Her necessary expenses were determined to be \$3,494.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$35.63 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

14. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).
15. Appellant alleged that they did incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
  - a. The Appellant testified that she was placed in a caregiving role for her disabled son during 2022. (Appellant's Testimony).
  - b. Appellant also indicated that this caregiving role forced her to expend additional expenses to ensure her dependent had necessary and essential items. (Appellant's Testimony). I credit these statements.
16. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
17. In her testimony, the Appellant explained that she was unable to afford health insurance due to the financial burden of caring for her son, who has Prader-Willi Syndrome. This condition necessitates additional care, which significantly impacts her financial resources. (Appellant's Testimony).
18. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

## CONNECTOR APPEALS UNIT



G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual’s income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.95%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will

# CONNECTOR APPEALS UNIT



find such coverage was unavailable.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3B in tax year 2022.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2022, the Appellant would qualify for Plan Type 3B through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3B is \$132. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL. They may, however, qualify for ConnectorCare plans and additional state premium assistance if they meet the necessary criteria.

## Appellant's Engagement with the Health Connector

The Appellant testified to applying for health coverage during the open enrollment period in 2022.

## Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$51,026.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$210.48 per month; according to Table 4, Appellant, who was 56 years old in 2022, lived in Plymouth County and filed her 2022 Massachusetts taxes as a Head of Household with 0 dependents, would have had to pay \$1,031.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

# CONNECTOR APPEALS UNIT



Considering the Appellant's gross income (\$4,252.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$210.48 per month), private health insurance with a premium of \$1,031.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since the Appellant is eligible for ELIGIBLE for Plan Type 3B in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,494.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$35.63. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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 2022.

# **CONNECTOR APPEALS UNIT**



## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.





# CONNECTOR APPEALS UNIT



Exhibit 4 StepStone Hospitality WebPage Print out, dated  
5/16/2023

2 pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 39 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Married Filing Jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$286,084.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 1,031% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Director of Sales at Hospitality Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$144.00. (Appellant's Testimony).
7. Appellant indicated she chose the plan she felt was best for her individual needs at the time of enrollment and at no point was she notified by the Health Insurance company or her employer that said plan failed to meet minimum creditable coverage standards. (Appellant's Testimony).
8. The Appellant does currently have Health Insurance as of January of 2024. (Appellant's Testimony).
9. The Appellant testified that her current plan does meet minimum creditable coverage standards. (Appellant's Testimony).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

## CONNECTOR APPEALS UNIT



11. According to Table 3 of Schedule HC for 2022, The Appellant has 2 dependents. As the Appellant has dependents, their affordability calculations have been adjusted to reflect that she would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC., with an adjusted gross income of \$286,084.00 was deemed able to pay \$1,907.23 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 39 and living in Middlesex County, could have purchased private insurance for \$756.00 per month.
12. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards, because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements.(Testimony of Appellant, Exhibit 2).
- 14.Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
- 16.The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. (Appellant's Testimony). Instead, she challenges the tax penalty by questioning the equity of the faulting her as an individual based on her Health Insurance company and her employer's failure to indicate that the Employer-Sponsored Insurance the employer offered failed to meet minimum creditable coverage standards for Massachusetts in the 2022 tax year. (Appellant's Testimony).
17. In her testimony, the Appellant shared that she was not informed by her Health Insurance company, nor her employer, that the Employer-Sponsored Insurance offered to her failed to meet the minimum required standards for Massachusetts Health Insurance in 2022. (Appellant's Testimony).
18. She discovered this only in 2023 and promptly switched to a different insurance plan. (Appellant's Testimony). Additionally, the Appellant mentioned

## **CONNECTOR APPEALS UNIT**



that she had no health issues in 2022, did not meet her insurance deductible, and therefore believes she should not face penalties due to her employer's oversight. (Appellant's Testimony).

19. Upon being notified of the issue, her employers reached out to Cygna, the health insurance provider. Cygna confirmed the shortfall, leading to an update in the employee handbook to ensure all other employees are aware of this issue. (Appellant's Testimony).

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had no health insurance in 2022 that met minimum creditable coverage standards in Massachusetts. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

#### **Appellant's Employment & Employer Based Insurance**

The Appellant was offered health insurance in 2022, by her employer, at an

## CONNECTOR APPEALS UNIT



approximate monthly cost of \$144.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$144.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2022, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income.

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 0.60% of the employee's income.

While the cost itself was affordable to the Appellant, the Employer-Sponsored Insurance offered by the Appellant's Health Insurance company and employer failed to meet minimum creditable coverage standards for Massachusetts in 2022. (Appellant's Testimony, Exhibit 1). Appellant was unaware of this at the beginning of 2022 and only became aware of this issue in 2023, when filing her state income tax return. (Appellant's Testimony). Appellant contacted her Employer-Sponsored Insurance provider and they confirmed the same. (Appellant's Testimony). Appellant was therefore unable to obtain alternative Health Insurance in light of lack of notice from her Health Insurance company and employer that her Employer-Sponsored Insurance did not meet minimum creditable coverage standards. (Appellant's Testimony).

### ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum creditable coverage standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax

## CONNECTOR APPEALS UNIT



credit. *See* 26 CFR § 1.36B-2(c)(3).

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 0.60% of the employee's income. Because the Appellant's employer's health coverage is deemed affordable.

However, because the Employer-Sponsored Insurance did not meet minimum creditable coverage standards, she would not be blocked in applying for Health Insurance coverage through the Health Connector. However, the Appellant testified that she was unaware of this as her Health Insurance company and employer failed to notify her of that fact. (Appellant's Testimony). I credit the Appellant's statements about the lack of notice from her Health Insurance company and employer relating to her Employer-Sponsored Insurance not meeting minimum creditable coverage standards.

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Because the Appellant's Income was 1,031% of the Federal Poverty Level, she is ruled to be INELIGIBLE based on income for subsidized coverage under ConnectorCare.

Given this information, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$286,084.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,907.23 per month; according to Table 4, Appellant, who was 39 years old in 2022, lived in Middlesex County and filed her 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$756.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$23,840.33 per month), tax filing status, place

## CONNECTOR APPEALS UNIT



of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$1,907.23 per month), the Appellant could have afforded private health insurance with a premium of \$756.00 per month. (2022 Schedule HC Tables)

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellant is appealing involves the reality that she purchased HealthCare coverage which she believed to be adequate but which in fact did not meet the state standard for minimum creditable coverage. In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance.

The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty.

However, under certain circumstances, this penalty may be waived. The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2. By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector.

Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt from the mandate and will not be penalized. The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty.

This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty. Individuals who fail to have MCC during a tax year will face a penalty when they file their taxes.

Regulations at 956 CMR 6.08 outline considerations for determining whether a taxpayer experienced a hardship, which may exempt them from the penalty. Hardship bases are similar to those for ConnectorCare premium waiver/reductions, including circumstances such as homelessness, significant unexpected increases in essential expenses, or situations where the cost of MCC would cause the taxpayer to experience a serious deprivation of food, shelter, clothing, or other necessities.

# CONNECTOR APPEALS UNIT



## Appellant's lack of Knowledge Surrounding Minimum creditable coverage

In her testimony, the Appellant stated that she wasn't aware that the health insurance provided by her employer did not meet Massachusetts' required health insurance standards. She learned about this issue in 2023 and quickly switched to a compliant insurance plan.

To clarify, Minimum Creditable Coverage (MCC) refers to the basic level of benefits needed to be considered insured and avoid tax penalties in Massachusetts. It is mandatory for health insurers in the state to inform consumers whether their plans meet these standards. Based on the Appellant's testimony, it is evident that she wasn't informed by her health insurance company or her employers that her plan fell short of these standards. I credit her testimony that upon learning this, she immediately sought a plan that did meet MCC.

Given that neither her employer nor her health insurance company provided the necessary notification, it seems she faced challenges in securing affordable health insurance that met the MCC criteria.

In light of 956 CMR 6.08 (3), which allows for consideration of circumstances where an individual may find it difficult to purchase health insurance meeting MCC, I find that the Appellant's failure to have such coverage was due to her health insurance company's lapse in informing her about her plan's deficiencies and not because of a choice she made to forgo coverage that met minimum creditable coverage standards.

## Conclusion

Therefore, in accordance with the circumstances presented and the guidelines of 956 CMR 6.08 (3), the tax penalty imposed on the Appellant is hereby waived, recognizing that her inability to obtain Minimum Creditable Coverage was due to a lack of proper notification from her health insurance company.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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



## **CONNECTOR APPEALS UNIT**



If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 31, 2024      Decision Date: Wednesday, January 31, 2024

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**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, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3  | Correspondence from the Appellant           | 1 page  |

# CONNECTOR APPEALS UNIT



Exhibit 4 Various Bills (Rent, National Grid, Verizon, Etc), dates ranging from to March to May 2023

6 pages

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 42 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$54,115.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 398% of the Federal Poverty level and based on her income, if all other conditions were met, she would be **MAY BE ELIGIBLE** for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Chiropractic Assistant at Chiropractor's Office in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by her employer.
7. The Appellant does not currently have Health Insurance as of January of 2024. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$54,115.00 was deemed able to pay \$360.77 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 42 and living in Norfolk County, could have purchased private insurance for \$318.00 per month.
10. Private insurance was **AFFORDABLE** for the appellant in 2022 (Schedule HC for 2022).

# CONNECTOR APPEALS UNIT



11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$2,400.00	<u>Car Insurance</u>	\$177.00	<u>Medical/Dental</u>	\$60.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$121.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$180.00	<u>Food</u>	\$616.00		
<u>Heat</u>	\$80.00	<u>Cell Phone</u>	\$100.00		
<u>Electricity</u>	\$200.00	<u>Household &amp; Toiletries</u>	\$17.00	<u>Car</u>	\$200.00
<u>Child Care Costs</u>	\$0.00			<u>Clothing</u>	\$17.00
				<u>Total:</u>	\$4,193.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$4,509.58. Her necessary expenses were determined to be \$4,193.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$546.71 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. 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

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. Due to financial constraints primarily stemming from essential living expenses, the Appellant testified that she was unable to afford health insurance coverage. (Appellant's Testimony).
17. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to her testimony.

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 for 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 had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

# CONNECTOR APPEALS UNIT



## Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. The Appellant does not qualify for ConnectorCare as their income is more than 300% of the Federal Poverty Limit but may qualify for Advance Premium Tax Credits.

For tax year 2022, the Appellant may be eligible for Advance Premium Tax Credits (APTCs). APTCs are federal tax credits used immediately to lower monthly health plan premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

## CONNECTOR APPEALS UNIT



If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since their income is between 300% and 400% of the Federal Poverty Level, and they do not have access to affordable employer health coverage.

### Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted.

With an income level of 398.20% of the Federal Poverty Level, the appellant would have been eligible for Advanced Premium Tax Credits (APTCs), which could have significantly lowered the cost of health insurance premiums.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$54,115.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$360.77 per month; according to Table 4, Appellant, who was 42 years old in 2022, lived in Norfolk County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$318.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,509.58 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$360.77 per month), the Appellant could have afforded private health insurance with a premium of \$318.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market and the Health Connector, in 2022, it must be determined whether the Appellant

# CONNECTOR APPEALS UNIT



experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$4,193.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$546.71. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she 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 2022.

## NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.



# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 31, 2024        Decision Date: Wednesday, January 31, 2024

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### 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, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3  | Loan Payment Email, (dated May 2023)        | 1 page  |

# CONNECTOR APPEALS UNIT



Exhibit 4	TMobile Bill, dated April 2023	3 pages
Exhibit 5	Mr. Cooper Mortgage Payment Statement, dated May of 2023	1 page
Exhibit 6:	Ally Bank Statement	1 page
Exhibit 7:	SunRun Statement, dated May 2023	1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Ex. 1).
2. Appellant lived in Hampden County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$56,025.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 412% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Foreman at Tree Company (January through July) in a full-time capacity. (Appellant's Testimony)
5. Later in 2022, the Appellant obtained a second position as a Foreman at Tree Company (August through the end of the Year).
6. Appellant was not offered health insurance by either of his employers.
7. The Appellant does not currently have Health Insurance as of January of 2024. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$56,025.00 was deemed able to pay \$373.50 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 27 and living in Hampden County, could have purchased private insurance for \$295.00 per month.

# CONNECTOR APPEALS UNIT



10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,870.00	<u>Car Insurance</u>	\$87.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$440.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$70.00	<u>Food</u>	\$264.00	<u>Car</u>	\$293.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$140.00	<u>Clothing</u>	\$50.00
<u>Electricity</u>	\$275.00	<u>Household &amp; Toiletries</u>	\$50.00	<u>Child Care Costs</u>	\$800.00
				<u>Total:</u>	\$4,592.33

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,668.75. His necessary expenses were determined to be \$4,592.33 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$829.85 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member,

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## **CONNECTOR APPEALS UNIT**



or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant was homeless or did fall more than thirty days behind in rent payments in 2022. Appellant did receive shut-off notices for basic utilities. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant).
  - a. The Appellant testified that he received a utility company shut off notice in 2022. (Appellant's Testimony).
  - b. Appellant went on to testify that his utility provider worked with him on a payment plan which he began to engage in in 2022 and his Utility Services were never actually disconnected. (Appellant's Testimony).
16. In the appeal, the Appellant conveyed that the monthly cost of \$250 for Health Insurance through the Health Connector was beyond his financial means.
17. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12

## CONNECTOR APPEALS UNIT



months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer(s). The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3).

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program. The Appellant is not eligible for ConnectorCare as his income is more than 400% of the Federal Poverty Limit.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR

## CONNECTOR APPEALS UNIT



155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

### Appellant's Engagement with the Health Connector

The Appellant testified to applying for health coverage during the open enrollment period. (Appellant's Testimony). The Appellant testified that he rejected the Health Connector's Health Insurance offering in light of its cost of around \$250 per month.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$56,025.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$373.50 per month; according to Table 4, Appellant, who was 27 years old in 2022, lived in Hampden County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$295.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,668.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$373.50 per month), the Appellant could have afforded private health insurance with a premium of \$295.00 per month. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market and the Health Connector, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$4,592.33. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$829.85. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

# **CONNECTOR APPEALS UNIT**



## Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1370

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 13, 2024

**Decision Date:** February 20, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Payroll Record (1 page, dated 4/10/23));
6. Mapfre Insurance (1 page, dated 11/2/22);
7. 2015 Appeal Decision (Docket No. PA15-1032; and
8. 2010 Appeal Decision (Docket No. PA10-1417).



## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a Head of Household with no dependents. Exhibit 1 and Testimony. See also Exhibit 4.
3. The Appellant pays \$160 per week (\$8,320 per year) for child support. The Appellant and the child's mother claim the tax deduction for the child in alternate years. Testimony and Exhibit 4.
4. The Appellant lives in Massachusetts (Hampden County) and works in Connecticut. The Appellant's employer does not offer him health insurance as a job benefit. The Appellant was 44 years old in 2022. Testimony and Exhibits 1 and 4.
5. The Appellant's 2022 federal adjusted gross income (AGI) was \$45,683. Exhibit 1. Under DOR Table 2 the Appellant's income was less than 300% of the Federal Poverty Level (\$38,640 for a one-person household or \$52,260 for a two-person household).
6. Under DOR Table 3 the Appellant could afford to pay \$282 per month for health insurance. (The calculation is 7.40% multiplied by \$45,683 AGI = \$3,380.54 per year divided by \$12 = \$281.71 per month.)
7. Under DOR Table 4 (Region 1) the Appellant would have to pay \$341 per month for individual health insurance at his age and location in Massachusetts.
8. The Appellant was paid \$19.50 per hour at his job. Testimony and Exhibit 5 (payroll record for 7/10/23).

9. The Appellant's car was declared a total loss in a 2022 accident. The Appellant paid \$9,000 to replace the car. Testimony and Exhibits 4 and 6.
10. I adopt the 2022 living expenses that the Appellant set forth in Exhibit 4. The monthly expenses (rounded) include: \$788 mortgage, \$18 home security, \$46 solar panels, \$166 car loan, \$65 internet service, \$15 Netflix, and \$28 cell phone. The weekly expenses include: \$30 gasoline and \$50 groceries. The annual expenses include: \$1,110 car insurance and \$300 life insurance. I omit the small amounts the Appellant listed for electric utility and gas utility payments.
11. The Appellant also filed tax penalty appeals in 2010 and 2015. The information set forth by the Hearing Officers in those appeal decision is too remote to provide a basis for an appeal in this case (2022). Exhibits 7 and 8.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the objective standards set forth in DOR Tables 3, and 4 are sufficient to establish that the Appellant could not afford to pay for health insurance in 2022. Based on his annual income (\$45,683 AGI before \$8,320 child care payment) the Appellant could afford to pay \$282 per month for health insurance that would cost \$341 per month. See Findings of Fact, Nos. 6 and 7, above. See also DOR Table 2, Findings of Fact, No. 5, above.

In 2022 the Appellant also sustained a significant loss when his car was totaled in an accident and had to be replaced. See Findings of Fact, No. 9, above. In addition, the Appellant itemized substantial living expenses in 2022. See Findings of Fact, No. 10, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (d) (par. 4) and (1) (e).

The Appellant should not assume that any penalty that may be imposed for 2023 or later years will also be waived or reduced based on my decision in the 2022 appeal. The Appellant should seek health insurance through the Health Connector or another source and assess whether a government-subsidy may make health insurance affordable. In particular, I note that the Health Connector increased its financial eligibility standards for 2024 so it is important to work with current data. See [www.mahealthconnector.org](http://www.mahealthconnector.org) or telephone 1-877-623-6765. You can also obtain help outside the government by contacting Health Care for All, a private, non-profit organization. The free consumer help line is 1-800-272-4232 or consult the website at [www.hcfama.org](http://www.hcfama.org).

**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 2022 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 2022.

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

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

complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



FINAL APPEAL DECISION: PA22-1378

**Appeal Decision:** Appeal Granted in part; the tax penalty is partially waived.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 14, 2024

**Decision Date:** February 25, 2024

**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 1 and Appellant 2 were a married couple in 2022 and filed their 2022 tax return jointly as Married with no dependents, Appellant 1 appeared at the Hearing. The Hearing was held by telephone, on February 14, 2024. The procedures to be followed during the hearing were reviewed with Appellant 1 who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant 1. The hearing record consists of Appellant 1's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 8, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by Appellant 1 on May 20, 2023.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant 1 was age 31 and Appellant 2 was age 25 in January 2022, and they filed their Federal Income Tax return as Joint, Married with no Dependents (Exhibit 2).
2. The Appellants lived in Suffolk County in 2022 (Exhibit 2, 3 and Appellant 1 Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$37,529.00 (Exhibit 2).

4. Appellant 1 did not have health insurance for twelve months of tax year 2022 while Appellant 2 was insured with minimum credible coverage for the entire year of 2022 (Exhibit 2 and Appellants' Testimony).
5. Appellant 1 has been assessed a twelve-month tax penalty for 2022 while Appellant 2 has not been assessed a penalty (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants' filing their Federal tax return jointly as Married with no dependents, with an annual adjusted gross income of \$37,529 could afford to pay \$194 per month for health insurance. In accordance with Table 4, Appellant 1 (older spouse), age 31 living in Suffolk County, could have purchased private insurance for \$580 per month. Private insurance was not affordable for Appellants.
8. Appellant 1 testified that in 2022 he worked part time at various jobs and had no access to health care insurance through his employer. Appellant 1 stated in 2022 his spouse (Appellant 2) had a policy through the HealthConnector and had several jobs throughout the year. He said he did not inquire about health insurance to the HealthConnector since his marriage was experiencing difficulties and he was assuming responsibility for most of the monthly living expenses including rent. (Appellant Testimony).
9. He stated he obtained full time employment at the end of 2022 and was added to his employer's health insurance benefit beginning in 2023. He testified that his estimated contribution to the couple's adjusted gross income was 60%. He added that he and Appellant 2 were divorced in 2023 (Appellant Testimony).
10. The Appellants' income was less than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Appellant 1 Testimony and Exhibit 2).
11. Appellant 1 testified that he and his spouse's monthly living expenses in 2022 exceeded \$3,000 including sending money to family abroad (Appellant Testimony).



## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellants filing their Federal tax return as Married filing Joint, with no dependents claimed and with an adjusted gross income of \$37,529.00, could afford to pay \$194 per month for health insurance. According to Table 4, Appellant 1, age 31, living in Suffolk County, could have purchased a private insurance plan for \$580 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellants in tax year 2022. Appellant 2 was employed full time and insured while Appellant 1 was not employed in 2022 other than part time jobs.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$52,260 for a household of two in 2022. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Appellants as a married couple would not have qualified for MassHealth based on the income requirements in 2022.

Appellant 1 testified to monthly living expenses exceeding \$3,000. Most of the couple’s income was consumed by living expenses and Appellant 1 testified he provided for family members overseas in 2022 and to marital problems exasperating his financial situation. However,

Appellant 1's may have found an affordable health insurance plan via the HealthConnector since he testified that his spouse obtained coverage via the ConnectorCare. He did testify to circumstances that would create a financial hardship if health insurance was purchased. In light of these facts, I am exercising my discretion as the Hearing Officer and partially waiving the penalty of Appellant 1 from twelve (12) to four (4) months.

The Appellants should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:

Appellant 1	<u>  12  </u>	Number of Months Assessed:	<u>  4  </u>
Appellant 2	<u>  0  </u>	Number of Months Assessed:	<u>  0  </u>

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 2022.

**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

**Appeal Decision:** Appeal Granted in part; the tax penalty is partially waived.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 14, 2024

**Decision Date:** February 27, 2024

#### **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 14, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 8, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on May 28, 2023.

Exhibit 4: In response to an Open Record Form the Appellant provided documentation on his inheritance of a 401K and debt he was paying monthly on.

#### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 29 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$53,827.00 (Exhibit 2).

4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for twelve months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$53,827.00 could afford to pay \$359 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Norfolk County, could have purchased private insurance for \$277 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified that he was unemployed all of 2022 with his unemployment insurance terminating in early 2022 and his father passed away the same year. He added that he inherited his father's 401(k) plan (minus taxes) in May of 2022 and these were his two sources of income in 2022 (Appellant Testimony and Exhibits 3).
9. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). He testified that he found the HealthConnector very difficult to navigate and visited the site but did not get a quote or a policy and he had a poor experience in the past with the system.
10. He testified that he was trying to find a job and focused all his efforts and mental energy on finding a job and was constantly very close to obtaining full time employment and his unemployment lasted much longer than he anticipated (Appellant Testimony).
11. Appellant estimated his monthly living expenses in 2022 exceeded \$3,800 (Exhibits 3 and 4 and Appellant Testimony).
12. He stated he is now employed full time and is covered through his employer's health care benefit.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$53,827.00 could afford to pay \$359 per month for health insurance. According to Table 4, the Appellant, age 29, living in Norfolk County, could have purchased a private insurance plan for \$277 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. He testified credibly that he found the ConnectorCare website confusing and he did not get a quote for a policy nor apply. He would not have been eligible for MassHealth by the income requirements in place for 2022.

Appellant believably testified to economic hardships and was responsive with documentation to substantiate these claims via an Open Record request from the Hearing Officer, including credit cards and other loans. He was unemployed for all of 2022 and his only income was unemployment insurance and the inheritance from this father’s estate. However, he did have

economic resources available to him in 2022 and could have afforded private health insurance, thus a full waiver of the entire Penalty is not appropriate. Accordingly, I am exercising my discretion as the Hearing Officer and partially waiving Appellant's penalty from twelve (12) months to three (3) months for Tax Year 2022.

The Appellant should note that the granting of a partial waiver of his penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

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 2022.

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

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

Cc:                      Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 22-1406

**Appeal Decision** The appeal is allowed; the tax penalty is waived.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 22, 2024

**Decision Date:** February 27, 2024

### **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 22, 2024. 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)

### **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 37 at the end of 2022. Exhibit 2.
2. Appellant lived in Bristol County in 2022. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$74,014.

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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 2022 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 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. Appellant worked for a small employer. Prior to 2022, Appellant was receiving health insurance through his employment. The arrangement was that his employer would pay the monthly premium for his insurance. The payment was automated.
7. Apparently, the automated payment agreement set up by the employer expired at the end of 2021. This problem was not identified in a timely manner by the employer's administrative personnel. As a result, Appellant's premium was no longer being paid after the end of 2021.
8. Appellant was unaware of this problem. He did not look at premium notices from the insurer, because he expected the premium to be paid.
9. As a result of non-payment, Appellant's insurance was cancelled effective January 1, 2022.
10. Appellant did not realize that his insurance had been cancelled until some months later. At that time, he tried to reinstate the insurance, but he was unable to because the annual open enrollment season had ended.
11. The next open enrollment occurred at the end of 2022. Appellant reinstated his insurance at that time, and he was insured effective January 1, 2023. He was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

Because Appellant did not have MCC-compliant health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must 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 2022 Schedule HC instructions at pages HC 7-9

Appellant had been offered affordable insurance through his employment. The employer paid the full premium for that insurance. However, effective January 1, 2022, the employer inadvertently stopped paying the premium, resulting in the cancellation of the insurance. Thus, Appellant was not offered insurance through his employment in 2022.



Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant’s household income during 2022 was \$74,014 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase insurance on the private, non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$74,014 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,921 annually or \$493 a month. During 2022, a person like Appellant who lived in Bristol County and was 37 years of age could have obtained insurance for a monthly premium of \$298. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider 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 lost insurance because of an error by his employer’s administrative staff, which let the automatic premium payment agreement lapse. Once Appellant discovered that error, he was not able to purchase insurance because the annual open enrollment period ended. Thus, although he could have afforded insurance on the non-group market, he was not able to purchase it because he missed the open enrollment season. Instead, he was required to wait for the next open enrollment season at which point he reinstated his insurance at the earliest opportunity. He was insured as of the date of the hearing.

Based on the foregoing, I will exercise my discretion to allow the appeal and waive the penalty in full.

#### **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 22-1407

**Appeal Decision** The appeal is allowed; the tax penalty is waived.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 22, 2024

**Decision Date:** February 27, 2024

### **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 22, 2024. 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 (7 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. Appellant was 45 at the end of 2022. Exhibit 2.
2. Appellant lived in Essex County in 2022. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$39,360.

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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 2022 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 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2022. Exhibit 2.
6. At the start of 2022, Appellant was unemployed. In the middle of the year, he got a contractor position, which paid him by the hour.
7. At the end of 2022, Appellant was made a regular employee and was offered health insurance. He took that insurance and was covered as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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.

Because Appellant did not have health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must 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 2022 Schedule HC instructions at pages HC 7-9

Appellant was unemployed for half of 2022. When he got employment, it was as a contractor, not a regular employee. Thus, Appellant was not offered affordable insurance through employment in 2022.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant’s household income during 2022 was \$39,360 and therefore he was not income-eligible for Connector Care.

Finally, Appellant could not have obtained affordable insurance on the private, non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$39,360 was deemed able to afford 7.45 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$2,932 annually

or \$244 a month. During 2022, a person like Appellant who lived in Essex County and was 45 years of age would have had to pay a monthly premium of \$364 for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2022, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I will determine that he should not have been penalized and will therefore p,waive the penalty in full.

**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

Tax Penalty Appeal Decision—Docket No. PA22-1431

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 23, 2024

**Decision Date:** February 25, 2024

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Employer’s Letter – Husband Not Eligible (1 page, dated 6/14/23); and
6. Husband’s Checking Account Bank Statements (3 Months 2023).

**FINDINGS OF FACT**

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

1. The Appellant (Husband) appealed from the Department of Revenue's assessment of an 8 month penalty for 2022. The basis for the penalty was that the Husband was insured for the month of January 2022, but not for any month during the remainder of 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 1 month insured = 11 months uninsured minus 3-month administrative grace period = 8 penalty months.)
2. The Appellant's Wife was insured for all of 2022 under a health plan offered by her employer. No penalty was assessed against the Wife for 2022, and she did not appeal or participate in the Husband's appeal hearing. Exhibits 1 and 2 and Testimony.
3. The Husband was employed only part-time in 2022 and 2023. The Husband's employer did not offer the Husband health insurance as a job benefit in either 2022 or 2023 because he was a part-time employee who worked 20 hours per week. Testimony, Exhibit 4 (Husband's letter supporting appeal), and Exhibit 5 (Employer's letter confirming that Husband was not offered health insurance in 2022 or 2023 as a part-time employee).
4. In 2024 the Husband was employed full-time by the same employer. The Husband and his Wife were both insured on the health insurance plan offered by the Husband's employer. (The Husband and Wife assessment was that the Husband's health plan offered better coverage, and they were expecting a baby.) Testimony.
5. The Appellant (Husband) and his Wife filed a Massachusetts personal income tax return for 2022 as a married couple filing jointly with no dependents. The Husband and Wife's combined federal adjusted gross income (AGI) for 2022 was \$104,622. Exhibit 1. The Wife's share of the AGI was approximately \$65,000 and the Husband's share was approximately \$39,000. Testimony.
6. In 2022 the Husband was 39 years old and the Wife was 36 years old, and they resided in Hampden County, Massachusetts. Exhibit 1.
7. The Husband and Wife's 2022 AGI (\$104,622) was more than 300% of the federal poverty level (\$52,260 for a two-person household). DOR Table 2. On this basis I

infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.

8. Based on DOR Table 3 the Husband and Wife could afford to pay 8.00% of their joint income -- or \$697 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$ 104,622 AGI = \$8,369.76 per year divided by 12 months = \$697.48 per month.)
9. Based on DOR Table 4 (Region 1) the Husband could obtain individual health insurance coverage at his age (35-39 years old) and location for \$298 per month in 2022. The Husband and Wife as a married couple could obtain health insurance for \$595 per month.
10. The Husband asserted that his monthly income and expenditures were approximately equal, as supported by the three monthly bank statements that he submitted as Exhibit 6. I accept that assertion, though I note that the bank statements are for 2023, not 2022.
11. The Husband's outstanding credit card balance is approximately \$15,000 - \$20,000. Other living expenses include \$2,200 per month for mortgage, \$280 per month car payments (the second car is paid for), \$1600 per year for car insurance, \$80 per month for electricity, and \$600 per month for oil heat. Testimony
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty



level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Husband's appeal from the state Department of Revenue's (DOR) assessment of an 8 month tax penalty because the Appellant had health insurance coverage for only one month (January) in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this appeal, the Husband provided clear support, especially by the letter from his employer (Exhibit 5), that he was employed only part-time in 2022 and for that reason the Husband was not eligible to enroll in the health insurance plan that the employer offered as a job benefit. I also recognize that as soon as the Husband was offered full-time employment he – and his Wife – enrolled in his employer’s health plan for 2024.

What is less clear is the impact of the household income and expenses and its impact on health insurance for the Husband. I agree with the Husband that he would not qualify for government-subsidized health insurance in 2022 due to the household’s joint income (\$104,622 AGI). The affordability standards set forth in DOR Table 3 indicates that the Husband and Wife jointly could afford to pay \$697 per month for health insurance. Though we lack information concerning the Wife’s health insurance plan in 2022, DOR Table 4 indicates that coverage for a married couple should be available for \$595 per month, or that the Husband could have obtained individual coverage for \$298 per month. See Findings of Fact, Nos. 7, 8 and 9, above.

I would impose a penalty for 2022, but I recognize that the Husband and Wife have already resolved their household’s health insurance obligation under Massachusetts law (according to the Husband’s hearing testimony, which I accept) by enrolling both of them in the Husband’s health insurance plan once he became a full-time employee. On top of other household expenses I especially note the large credit card balance (\$15,000 – 20,000) in the Husband’s appeal hearing testimony, along with the concern about the expected child birth. See, e.g., Findings of Fact, Nos. 4 – 9 and 11, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Husband for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). I add that the Husband (and Wife) should not expect that penalties will be waived (or reduced) in the future if they fail to comply with the individual mandate by obtaining health insurance coverage.

**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 2022 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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1432

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 23, 2024

**Decision Date:** February 25, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$47,642. Exhibit 1.
3. The Appellant was 36 years old at the beginning of 2022 and resided in [name of city or town omitted] in Barnstable County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$47,642) was more than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.60% of her income -- or \$302 per month -- for health insurance coverage in 2022. (The calculation is 7.60 % multiplied by \$47,642 AGI = \$3,620.79 per year divided by 12 months = \$301.73 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$298 per month in 2022.
7. The Appellant has been a long-time employee as a preschool teacher. Except for 2022 (the year at issue in this appeal), she has been enrolled in the health insurance plan offered by her employer. Testimony and Exhibit 4.
8. The Appellant did not enroll in her employer's health insurance plan for 2022 because, as she put it, the insurance was "too expensive to afford." Exhibit 4.
9. Rent was the major change in the Appellant's financial circumstances in 2022. Her rent increased from \$1,000 per month to \$1,450 (a 45% increase). Testimony. See also Exhibit 4). Having a place to live was the Appellant's primary concern in 2022. In addition to the rent increase this is reflected in the narrow margin in the affordability standards set forth in DOR Table 3 and Table 4, which show that in

2022 the Appellant could afford to pay \$302 per month for health insurance that would cost \$298 per month. See, e.g., Findings of Fact, Nos. 5 and 6, above.

10. The Appellant applied to MassHealth in an effort to replace her health insurance for 2022, but her application was denied. The same morning as her appeal hearing the Appellant was on the telephone to the Health Connector with a person at her medical doctor's office trying to address her health insurance coverage. Testimony. See also Exhibit 4.
11. The coronavirus pandemic (COVID-19) also caused some changes in the Appellant's employment. The Appellant was receiving unemployment insurance benefits for a period of time. Testimony.
12. The Appellant's living expenses include: car insurance \$150 per month (her car is paid for), \$200 per month for telephone, \$200 per month for cable service, and \$175 per week for groceries reflecting a substantial increase in food costs. Testimony.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

This is an unusual appeal in that the Appellant, as a long-time employee at a pre-school program, was insured through the same employer for the years before and after



2022. There is no dispute, however, that the Appellant did not re-enroll in her employer’s health plan for 2022 – the year at issue in this appeal.

For the Appellant, the principal issue was her ability to afford health insurance in 2022 in light of a very substantial increase in her rent payments, from \$1,000 per month to \$1,450 per month. In addition, COVID-19 created some disruption at the pre-school program such that the Appellant was receiving unemployment insurance benefits for a period of time. The Appellant did seek to replace her health insurance by filing an application for MassHealth, which was denied. This is also an inflationary period, as reflected in the Appellant’s grocery bills.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**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 2022 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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

## Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1433

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 23, 2024

**Decision Date:** February 25, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared for the hearing, which I conducted by telephone. With the Appellant's permission, an appeal representative (a lawyer, tax preparer, and family friend, who asked to receive a copy of the appeal decision in addition to the Appellant) also participated in the appeal after being sworn under oath).

A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of testimony under oath by the Appellant and the Appeal Representative and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages); and
4. Appellant's Letter in Support of Appeal (1 page).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of an 8 month penalty for 2022. The basis for the penalty was that the Appellant was not insured for the months of January – November 2022 by health insurance that satisfied the Massachusetts minimum creditable coverage standards ("MCC"). 2022. Exhibits 1 and 2. (The calculation is 12 months minus 1 month insured (December) = 11 months uninsured (January – November) minus 3-month administrative grace period = 8 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$45,258. Exhibit 1.
3. The Appellant had been insured under his parents' health insurance plan until he reached the age of 26 years old. When the Appellant was no longer eligible to insure with his parents he sought to enroll in other health insurance plans in 2022 – the year at issue in this appeal. Exhibit 4 and Testimony. See also Exhibit 1 (DOB).
4. In 2022 the Appellant first enrolled PHCS Vital Care Elite. This coverage ended in October 2022 when the company went out of business. Exhibit 4 and Testimony. According to the DOR this insurer did not satisfy the MCC standards as DOR did not credit the Appellant with being insured in 2022 in Exhibit 1.
5. The Appellant promptly enrolled in a second health insurance plan, named First Health – Secure Care Preferred. The Appellant dropped this plan when he called the company to ask a question and was informed that the insurance did not meet the Massachusetts Minimum Creditable Coverage standards ("MCC"). The Appellant then sought another health insurance plan. Exhibit 4 and Testimony.
6. In December 2022, the Appellant enrolled in Blue Cross/Blue Shield, a health insurance plan that satisfies the MCC standards, and he continued to use Blue Cross Blue Shield thereafter. Exhibit 1 (DOR credit for insurance), Exhibit 4, and Testimony.

7. The Appellant paid a monthly premium in the approximate amount of \$200 per month for the two health insurance plans listed in Findings of Fact, Nos. 4 and 5, above (The Appellant was not certain of the amount). Under DOR Table 4 (Region 2), the Appellant might expect to pay \$277 per month for individual health insurance coverage at his age and his location in Massachusetts that met the MCC standards. Testimony.
8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW<sup>8</sup>**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of an 8 month tax penalty because the Appellant did not have health insurance coverage that satisfied the Massachusetts Minimum Creditable Coverage standards ("MCC") in 2022 except for the month of December. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 5.01 and 5.03.

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The significant feature of this appeal is that the Appellant sought to be insured at all times. Moreover, the Appellant actually paid monthly premiums for the health insurance coverage that resulted in the DOR penalty assessment, and he promptly shifted coverage to a new insurer when he learned about the MCC problem.

Initially, the Appellant was covered by his parents’ health insurance plan until that coverage was no longer available after his 26<sup>th</sup> birthday. See, e.g., 45 Code Fed. Regs. 147.120 (a) (1). The Appellant then enrolled in two other health insurance plans in 2022, but neither company satisfied the MCC standards. When one company went out of business the Appellant enrolled in a second insurer. The state Department of Revenue assessed a penalty against the Appellant for both of these insurers because they did not meet the Massachusetts Minimum Creditable Coverage standards (“MCC”). See Mass.

Gen. Law, c. 111M, sec. 2 (b), above. See also 956 Code Mass. Regs. 5.01 and 5.03, above.

The Appellant was not aware, however, that there was an MCC problem, and he was paying monthly premiums to both insurers. Only in December 2022 did the Appellant successfully enroll in a third insurance plan – BlueCross/BlueShield -- that met the MCC standards. See Exhibit 1. See also Exhibit 4 and Testimony.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022.

**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 2022 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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit





Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1439

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 23, 2024

**Decision Date:** February 28, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants’ Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellants’ Letter in Support of Appeal (1 page).

**FINDINGS OF FACT**

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

1. The Appellants (Wife and Husband) jointly appealed from the Department of Revenue's assessment of a 24 month penalty for 2022 (12 months for Wife and 12 months for Husband). The basis for the penalty was that neither of the Appellants was insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the appeal hearing testimony, I find that the penalty assessment is accurate.
2. The Wife submitted a detailed letter on behalf of herself and her Husband in support of the Appellants' appeal that I find credible and compelling (Exhibit 4). I adopt the facts set forth in Exhibit 4, supplemented by the hearing testimony by Wife and Husband, as my own findings of fact. I will not repeat all the details in this decision.
3. At the beginning of 2021 the Appellants were both insured under the health plan offered by the Wife's employer as a job benefit. Testimony and Exhibit 4.
4. In April 2021 the Wife had a severe reaction to COVID-19 that resulted in her taking a leave of absence from work. While she was on leave there had been changes at her workplace that made the Wife's job considerably more difficult to perform when she returned to work. The Wife was still not fully recovered (including depression, anxiety, and steroid reaction), and her performance led to her dismissal from her job. Her condition meant that she did not address the resulting loss of health insurance for both Wife and Husband. Exhibit 4 and Testimony.
5. The Husband subsequently realized that his Wife had lost their health insurance coverage. The Appellants approached the Wife's employer, the Husband's employer, and the Health Connector in an effort to restore their health insurance. The response was uniformly negative: due to the open enrollment policies the Appellants could not obtain health insurance until 2023. Testimony and Exhibit 4.
6. At the next open enrollment period the Appellants promptly enrolled in the health insurance plan offered by the Husband's employer with coverage starting in January 2023. In the meantime, the Appellants had to pay out of pocket for medical care. Testimony and Exhibit 4.
7. The Wife has not been able to return to work due to her medical condition. The Appellants anticipate that the Wife's application for disability benefits will be approved later this year. Testimony and Exhibit 4.

8. In 2022 and 2023 the Wife has made sizeable withdrawals from her retirement accounts because she was no longer able to work. For 2022 the Appellants filed a state tax return as a married couple that reported \$135,088 in federal adjusted gross income (AGI). Testimony, Exhibit 1 and Exhibit 4.
9. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant' (Wife and Husband) appeal from the state Department of Revenue's (DOR) assessment of a 24 month tax penalty because the Appellants did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal in this case reflects an unfortunate conjunction of the Wife’s medical condition starting in 2022 and the effect of the open enrollment policies that meant the Appellants could not resolve their health insurance gap until the following year (2023). The Appellants were enrolled in health insurance both before and after 2022, and they sought to insure themselves in 2022 after the Wife lost her job and their health insurance coverage. For 2022 the Appellants had to pay for their medical needs out-of-pocket because the open enrollment policy precluded them from enrolling in a new health insurance plan until 2023.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellants (Wife and Husband) for 2022.

**PENALTY ASSESSED**

Number of Months Appealed:   24   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 2022 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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 26, 2024      Decision Date: Wednesday, January 31, 2024

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### 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 26, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page

# CONNECTOR APPEALS UNIT



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 63 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single.
2. The Appellant has no dependents (Exhibit 1).
3. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
4. Appellant's Federal Adjusted Gross Income for 2022 was \$33,390.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 246% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
5. In 2022, the Appellant was initially employed as a Mail Specialist at an Office Services Company, from January through April, in a full-time capacity. (Appellant's Testimony).
6. Later in 2022, the Appellant obtained a second position as a Temporary Office worker at a Temp Agency (November through end of the Year).
7. The Appellant was on unemployment insurance for three (3) months during the year. (Appellant's Testimony).
8. Appellant was not offered health insurance by his employers until November of 2022, at which point he enrolled into the Employer-Sponsored Insurance.
9. The Appellant does currently have Health Insurance as of January of 2024. (Appellant's Testimony).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$33,390.00 was deemed able to pay \$139.12 per month for health insurance, or 5.00% of his income. According to Table 4, Appellant, age 63 and living in Suffolk County, could have purchased private insurance for \$435.00 per month.



# CONNECTOR APPEALS UNIT



12. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

13. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$675.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$35.00	<u>Food</u>	\$330.00	<u>Car</u>	\$98.00
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$30.00	<u>Clothing</u>	\$50.00
<u>Electricity</u>	\$50.00	<u>Household &amp; Toiletries</u>	\$25.00		
<u>Child Care Costs</u>	\$0.00	<u>Car Insurance</u>	\$0.00		
				<u>Total:</u>	\$1,343.00

14. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,782.50. His necessary expenses were determined to be \$1,343.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$719.19 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

15. Appellant's statement of grounds for appeal was on the basis of:

- a. In his initial statement of grounds, the Appellant did not specify any particular reasons as outlined in the provided form. However, his testimony revealed that he believed Health Insurance would be unaffordable for him, considering his income and the significant period of unemployment he faced during the year. (Appellant's Testimony).
- b. During 2022, the expense of purchasing health insurance would have

<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## CONNECTOR APPEALS UNIT



caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant).

16. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
17. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
18. In his testimony, the Appellant stated that he was terminated from his job in April 2022 and experienced three months of unemployment. The Appellant testified that he obtained new health insurance through his employer in November 2022. (Appellant's Testimony).
19. At the beginning of 2022, the Appellant testified that he anticipated receiving insurance from his employer, but this did not materialize. The Appellant testified that once he was terminated in April of 2022, he believed he would be able to obtain new employment quickly and then obtain Employer-Sponsored Insurance. (Appellant's Testimony).
20. The Appellant acknowledged that he did not take any steps to secure health insurance between January of 2022 and November of 2022, despite his previous experience with MassHealth and awareness of the insurance mandate.
21. The Appellant has been assessed a penalty for not having health insurance in 2022 for 7 months.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, according to his testimony.

# CONNECTOR APPEALS UNIT



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 for 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 had health insurance for 2 month(s) in 2022. He has been assessed a tax penalty for 7 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

## Appellant’s Employment & Employer Based Insurance

The Appellant began receiving health insurance from his employer only in November 2022. For the months from January to November, while he was employed at his first job and during his unemployment, he did not have access to health insurance through his employer. This situation meant he was not restricted from applying for Connector Care or other Health Insurance from the Health Connector.

Importantly, the penalty imposed on the Appellant was specifically for the period from January to November. Therefore, it is crucial to recognize that during the time the penalty was assessed, the Appellant did not have employer-sponsored insurance and was eligible to apply for health insurance through the Health Connector.

## ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3A in tax year 2022.

In Massachusetts, you could get state help with ConnectorCare plans if your income is

## CONNECTOR APPEALS UNIT



300% of the FPL or less. In tax year 2022, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

### Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted.

Notably, with an income level of 245.70% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$33,390.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$139.12 per month; according to Table 4, Appellant, who was 63 years old in 2022, lived in Suffolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$435.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,782.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$139.13 per month), private health insurance with a premium of \$435.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

# **CONNECTOR APPEALS UNIT**



## **Financial Hardship Analysis**

Since the Appellant was ELIGIBLE for Plan Type 3A in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,343.00. With a monthly difference of \$719.19 between income and expenses, and considering the lowest monthly premium for the Appellant's qualifying ConnectorCare plan, based on their income, would have been around \$90 dollars per month, it appears that affording a healthcare plan should be manageable for the Appellant.

## **Conclusion**

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 7-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he 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:           7                   Number of Months Assessed:           7

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 2022.

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

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

Hearing Officer

cc. Connector Appeals Unit

## **CONNECTOR APPEALS UNIT**



Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: February 2, 2023      Decision Date: Thursday, December 28, 2023

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### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 2, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC   | 1 page  |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

# **CONNECTOR APPEALS UNIT**



## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 years old in the beginning of 2021. Appellant filed his 2021 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$31,922.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 248% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2021, the Appellant was employed as a To-Go Worker at a restaurant in a part-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does currently have Health Insurance through the Health Connector as of February of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$31,922.00 was deemed able to pay \$133.01 per month for health insurance, or 5.00% of his income. According to Table 4, Appellant, age 34 and living in Norfolk County, could have purchased private insurance for \$268.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
11. In 2021, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

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<sup>1</sup> The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly



# CONNECTOR APPEALS UNIT



<u>Rent or Mortgage</u>	\$700.00	<u>Car Insurance</u>	\$91.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$200.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$400.00	<u>Credit Cards</u>	\$290.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$91.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$0.00	<u>Household &amp; Toiletries</u>	\$50.00	<u>Car</u>	\$254.00
<u>Child Care Costs</u>	\$0.00	<u>Car Insurance</u>	\$91.00	<u>Clothing</u>	\$0.00
				<u>Total:</u>	\$2,161.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,660.17. His necessary expenses were determined to be \$2,161.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$218.67 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof. (Testimony of Appellant, Exhibit 2).(Testimony of Appellant, Exhibit 2).
14. 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

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payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

## **CONNECTOR APPEALS UNIT**



providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. Appellant testified that in 2021, he attempted to sign up with the health connector for subsidized insurance, but technical issues relating to his account stopped him from being able to do so. (Appellant's Testimony).
17. The Appellant further testified that he had trouble logging into the website. Appellant testified he contacted the health connector on several occasions to try and rectify the issue, but was unsuccessful.
18. Appellant also testified his ability to rectify the issue was negatively impacted by a diagnosis of anxiety. (Appellant's Testimony).
19. Appellant testified that he was stuck dealing with this apparent technical issue for several years and chose to pay the tax penalties in all years prior to 2021. (Appellant's Testimony).
20. Appellant testified that he appealed this year due to the cost of the penalty being much larger than in the past. (Appellant's Testimony).
21. The Appellant has been assessed a penalty for not having health insurance in 2021 for 12 months. (Exhibit 1).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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. The Appellant was aware of the individual mandate, according to his testimony.

Residents who do not obtain insurance are subject to 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

## CONNECTOR APPEALS UNIT



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 for 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 had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. (Appellant's Testimony). Per the Appellant's testimony, he did not work enough hours to be provided health insurance from his employer, who only offered it to full time employees. (Appellant's Testimony). I credit this testimony. The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2021 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 5.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you

## CONNECTOR APPEALS UNIT



from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type 3A in tax year 2021.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2021, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2021's lowest monthly premium for Plan Type 3A is \$89. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

### Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$31,922.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$133.01 per month; according to Table 4, Appellant, who was 34 years old in 2021, lived in Norfolk County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$268.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,660.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$133.01 per month), private health insurance with a premium of \$268.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

### Financial Hardship Analysis

Since the Appellant was eligible for Plan Type 3A in 2021, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

Appellant has demonstrated a financial hardship. The appellant testified that in 2021

## CONNECTOR APPEALS UNIT



they incurred basic monthly expenses of approximately \$2,161.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$218.68. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

### Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he 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 2021.

### NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: January 12, 2024      Decision Date: Wednesday, January 31, 2024

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### 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 12, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

# CONNECTOR APPEALS UNIT



Exhibit 3	Safety insurance, premium statement, dated February 2021	2 pages
Exhibit 4	Home and Auto appraisal paperwork for safety insurance, estimation of record. Date of loss January 19, 2022.	3 pages
Exhibit 5	MVB bank statement(s), dated January 2022, July 2022 and December 2022	3 pages
Exhibit 6:	Senne Payment Receipt, dated 4/27/2022	1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$79,850.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 588% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. In 2022, Appellant was laid off from his employer in January. Then Appellant held a position as an Account Manager at a Start-Up company, working full-time from February to June (as per Appellant's Testimony).
5. Later, the Appellant secured a role as a Sales Assistant at Family Entertainment Center from June to November, followed by employment as a Customer Success Associate at a Youth Sport Company starting in December 2022 (Appellant's Testimony).
6. Appellant was offered health insurance by his first employer and last employer in 2022. (Appellant's Testimony). Appellant testified he was not offered insurance by his second and third employers during the year.
7. The Appellant does currently have Health Insurance as of January of 2024. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and

# CONNECTOR APPEALS UNIT



premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$79,850.00 was deemed able to pay \$532.33 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 26 and living in Middlesex County, could have purchased private insurance for \$277.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,750.00	<u>Car Insurance</u>	\$134.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$110.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$85.00	<u>Food</u>	\$352.00	<u>Car</u>	\$0.00
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$50.00	<u>Clothing</u>	\$100.00
<u>Electricity</u>	\$100.00	<u>Household &amp; Toiletries</u>	\$40.00		
				<u>Total:</u>	\$2,833.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$6,654.17. His necessary expenses were determined to be \$2,833.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$2,378.83 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:

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<sup>1</sup>The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.



## CONNECTOR APPEALS UNIT



- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. Appellant testified that he didn't believe he could afford his Insurance via the Health Connector based on his belief in what his income was.
17. Appellant testified that he only became aware of the mandate in early 2022 and confirmed, on his own, that he was required to have Health Insurance as a resident of Massachusetts. (Appellant's Testimony). Appellant also testified that he took no steps to obtain Health Insurance even after learning of the individual mandate requirement. (Appellant's Testimony).
18. The Appellant has been assessed a penalty for not having health insurance in 2022 for 7 months.

## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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. The Appellant was aware of the individual mandate, beginning in 2022, according to his testimony.

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance

## CONNECTOR APPEALS UNIT



policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 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 for 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 had health insurance for 2 month(s) in 2022. He has been assessed a tax penalty for 7 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer(s) during the time in which he was penalized for not having Health Insurance. The Appellant testified that they experienced periods of unemployment during the year 2022, and were employed during most of the year in several positions, but that during the majority of the year, he was not offered Employer-Sponsored Insurance from his employers (Appellant's Testimony). The Appellant was assessed a penalty of 7 months based on their lack of coverage over 10 months.

In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of their termination event. A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child), loss of other health coverage, or job loss.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

The Appellant has testified that they were not offered health insurance by their employer during the times in which they were penalized for not having Health

## CONNECTOR APPEALS UNIT



Insurance. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The appellant would not have been blocked from obtaining coverage from the Health Connector in light of his lack of Employer-Sponsored Insurance during the period for which he was penalized.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program. However, the Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

### Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, and the Appellant not having Employer-Sponsored Insurance, due diligence in seeking health coverage through the Health Connector was not conducted.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$79,850.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$532.33 per month; according to Table 4, Appellant, who was 26 years old in 2022, lived in Middlesex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

# CONNECTOR APPEALS UNIT



In light of the Appellant's gross income (\$6,654.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$532.33 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

## Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,833.00. With a monthly difference of \$2,378.83 between income and expenses, and considering the monthly premium for private market coverage was found to be affordable at \$277.00 per month, it appears that affording health insurance would have been feasible for the Appellant.

## Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 7-month penalty is upheld.

## **PENALTY ASSESSED**

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

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 2022.

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

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

# CONNECTOR APPEALS UNIT



Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1259

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 4, 2024

### **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, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

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 56-years-old, is married and has adult children. In 2022, he had minimum creditable coverage (MCC) health insurance from January through March. (Testimony, Ex. 2)
2. Prior to 2022, the appellant worked for the same employer for over thirty years during which time he had employer health insurance. In December, 2021, he lost his job. His health insurance, which covered himself, his wife and one of his children, continued until the end of March, 2022. (Testimony, Exs. 1,2)
3. The appellant held a second, part-time job at a state college, but was not eligible for insurance due to his part-time status. Subsequent to his job loss, he applied and became a full-time employee in July, 2022. He was not eligible for insurance at that time because he was outside of the open enrollment period. (Testimony, Ex. 1)

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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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant investigated his eligibility for insurance through the Health Connector in April, 2022, but determined that the cost of an individual plan was approximately \$500.00/month which he could not afford. (Testimony)
5. The appellant's wife was able to enroll in insurance through her employer at some point in 2022. The appellant advised her that he hoped to secure insurance through his second job, and she did not include him in her enrollment. (Testimony)
6. The appellant enrolled in his wife's employer health insurance from January through April, 2023. He subsequently enrolled in his own employer insurance in June, 2023, during open enrollment, and has continued his insurance since then. (Testimony)
7. The appellant reported an adjusted gross income of \$86,473.00 on his 2022 federal tax return, and reported that he was single with no dependents. <sup>2</sup> (Ex. 2)

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), but did not specify a ground for his appeal. He also submitted a letter with his statement in which he stated in part that he tried to get insurance through his employer and was denied, and any other option was too costly.

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 2022, 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 insured from January through March, 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).

The appellant testified credibly that he had employer health insurance for over thirty years until December, 2021, when he lost his job. He testified that his insurance was continued until March, 2022. He testified that he investigated his eligibility for insurance through the Health Connector and determined that the cost of a premium for a monthly plan would have been approximately \$500.00 which he could not afford. He testified that he became a full-time employee in July, 2022, at a state college where he had worked on a part-time basis for several years, but could not enroll in employer health insurance until the next open enrollment period. He testified that he initially declined to enroll in insurance through his wife's employer, but did enroll through her from January through April, 2023. Finally, he testified that he enrolled in insurance through his employer in June, 2023, during the open enrollment period.

The appellant offered credible testimony that he investigated a number of insurance options in 2022 after losing his job where he had worked for over thirty years. These included the Health Connector where he determined that the cost was unaffordable and his part-time state position where he became a full-time employee in July,

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<sup>2</sup> Although the appellant has been married since 2014, he has reported on his tax return that he is married filing since that time.

2022, but could not enroll in employer insurance until the next open enrollment period in June, 2023. He could have enrolled in his wife's employer insurance which he initially declined because he believed that he would be able to secure insurance through his employer. He ultimately did enroll in her insurance for the first four months of 2023 before his own insurance kicked in.

Based on the totality of the evidence, it is concluded that the appellant offered credible evidence which established that he made reasonable efforts to secure insurance after losing his long-term employer insurance, and did not manifest an intent to evade the mandate. This is true even though he declined the opportunity to enroll in his wife's employer insurance. Moreover, he had employer health insurance for over thirty years prior to 2022, and has been enrolled in employer insurance since June, 2023, thereby demonstrating that the requirement to obtain insurance has not been lost on him.

Accordingly, 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 2022 only and is based upon the extent of information submitted 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 2022 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 2022.

**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: PA22-1263

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 7, 2024

### **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, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2022
- 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 35-years-old, is single and has one minor child. In 2022, he had minimum creditable coverage (MCC) health insurance for the months of February and March. He resided in Bristol County, MA in 2022. (Testimony, Ex. 1)
2. The appellant was enrolled in health insurance through the Health Connector for the months of February and March, 2022. His initial monthly premium of \$200.00 was increased to \$275.00. He could no longer afford the cost and cancelled his coverage. (Testimony, Ex. 1)
3. The appellant was employed in 2022 and was eligible for employer health insurance. He initially declined that insurance because he had coverage through the Connector. After he terminated that coverage, he was unable to enroll in employer insurance because the open enrollment period had closed. (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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant's mother became ill in 2022 and he and his sister took care of her during her illness. She had no income and they paid for her expenses including the purchase of a special bed and other medical supplies. She died in July, 2022, and they covered the cost of her cremation and other related expenses. He estimated that he paid a few thousand dollars for her care. (Testimony, Ex. 1)
5. The appellant was enrolled in employer health insurance for the first half of 2023 and then had coverage through MassHealth. (Testimony)
6. The appellant's 2022 tax returns were prepared by a tax service. His Schedule HC indicates that he did not have health insurance for any month during the year. It is not known why the form does not show coverage for the months of February and March. (Testimony)
7. The appellant reported an adjusted gross income of \$63,169.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. In 2022, the appellant had regular monthly expenses of approximately \$2540.00 for rent (\$1000.00), heat averaged over twelve months (\$107.00), electricity averaged over twelve months (\$108.00), cell phone (\$165.00), internet and cable package (\$285.00) automobile insurance (\$100.00), boat insurance (\$155.00), gas (\$120.00), and food (\$500.00). In addition, he paid approximately \$500.00/month for credit card debt. (Testimony)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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 2022 because he incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the sudden responsibility for providing full care for an aging parent or other family member. He also submitted a letter with his statement in which he stated in part that he could no longer afford health insurance because he became his mother's caretaker.

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 2022, 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. Although the appellant had MCC insurance for February and March, he was assessed and is appealing a penalty of twelve months based on the information provided on his Schedule HC.

The appellant testified credibly that he had health insurance through the Health Connector for the months of February and March, but cancelled that coverage when the premium increased to \$275.00/month. He testified that he tried to enroll in his employer insurance thereafter but was unable to because the open enrollment period

was closed. He testified that his mother became ill in 2022 and he and his sister took care of her throughout her illness until she died in July. He testified that he incurred several thousand dollars in expenses including medical supplies and her cremation. Finally, he testified that in 2023, he was enrolled in employer insurance for the first half of the year and then had coverage through MassHealth.

Although the appellant filed his appeal on the ground that he incurred a significant, unexpected increase in expenses resulting directly from the consequences of the sudden responsibility of providing full care for an aging parent, he failed to establish that he provided full care for his mother or that the responsibility for her care was sudden. He did not argue that he had to leave his job in order to provide care, and in fact testified that he shared the responsibility with his sister. While he offered credible testimony regarding the amount of money he paid for her care, that does not satisfy the threshold requirements for claiming hardship on that basis. Accordingly, it is concluded that the appellant does not qualify for a waiver of the penalty under that ground.

The evidence provided by the appellant established that his income for 2022, \$63,169.00, was greater than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income at or above \$51,521.00 is deemed to be able to afford a monthly premium of \$421.13 (8.00% of \$63,169/12). Table 4 of the Premium Schedule indicates that a 34-year-old individual (the age of the appellant in 2022) in Essex County (where the appellant resided in 2022) 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 2022.

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 another form of hardship during 2022. Other examples of hardships include being homeless or overdue in rent or mortgage payments, or receiving a shut-off notice for utilities. In addition, the appellant's tax penalty for 2022 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 2022, he incurred basic monthly expenses of approximately \$3040.00, including his credit card debt. Those expenses were less than his regular monthly pre-tax income of approximately \$5264.00, thereby making a private insurance premium of \$290.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2224.00 per month is not a panacea, it does not appear on its face that the payment of \$290.00/month 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 that he encountered difficult circumstances in 2022 including taking care of his ill mother who ultimately passed away. While the costs he incurred in that regard do not rise to the level of a financial hardship consistent with the foregoing analysis, it is concluded that his overall situation constitutes the type of hardship which falls within the spirit, if not the exact letter, of the law. Furthermore, the appellant was enrolled in health insurance throughout 2023, thereby demonstrating that the mandate to purchase insurance has not been lost on him. At the same time, he should understand that this extension of leniency is for this year only and he should not rely on a similar result if he is assessed and appeals a penalty in the future.

Based on the foregoing, 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 2022 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 2022 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 2022.

**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: PA22-1264

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 11, 2024

### **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, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2022
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Final Appeal Decision in PA20-817, 11/24/2021
- Ex. 4—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 55-years-old, is single and has one adult child. He did not have health insurance in 2022. He resided in Plymouth County in 2022. (Testimony, Ex. 2)
2. Prior to 2022, the appellant last had health insurance in 2019. He did not pay a penalty for the 2020 and 2021 tax years for being uninsured. (Testimony, Ex. 3)
3. In 2022, the appellant was employed on a seasonal basis in construction from May through December. He was unemployed for the months of January through April and did not receive unemployment compensation benefits during that period. (Testimony)
4. The appellant's employer did not offer health insurance. He investigated his eligibility for insurance through the Health Connector and determined that the cost was unaffordable. (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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant fell behind with his rent for three months during 2022. His landlord was aware of his financial circumstances and allowed him to make partial payments towards his rent. The appellant did not receive any eviction notices or notices to quit for the arrearages. (Testimony)
6. The appellant worked on a seasonal basis in 2023 and did not have health insurance for any part of the year. (Testimony)
7. The appellant was assessed a penalty of twelve months for being uninsured for the 2020 tax year. He filed an appeal, and following a hearing, the hearing officer determined that he did not have sufficient income to pay for health insurance in light of his monthly expenses, and waived the penalty based on financial hardship. (Testimony, Ex. 3)
8. The appellant reported an adjusted gross income of \$35,439.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)
9. In 2022, the appellant had regular monthly expenses of approximately \$2750.00 for rent which included heat and hot water (\$800.00), electricity (\$100.00), internet and cable service (\$200.00), automobile loan (\$400.00), automobile insurance (\$250.00), gas (\$400.00), and food (\$600.00). In addition, he paid \$200.00/month for a personal loan and \$150.00/month for credit card debt. (Testimony)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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 2022 because 1) he was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice; and 2) 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 in part that he cannot afford insurance, is two months behind with his rent, and is in a waiting period for employer health insurance.

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 2022, 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 was employed on a seasonal basis in 2022 and did not have access to employer health insurance. He testified that he investigated health insurance options through the Health

Connector and determined that the cost was unaffordable. He testified that he fell behind with his rent for three months and his landlord allowed him to make partial payments towards the outstanding balance. Finally, he testified that he was employed on a seasonal basis in 2023 and did not have insurance for any part of the year.

With respect to the first ground of the appeal, although the appellant offered compelling testimony regarding rent arrearages in 2022, he was able to make partial payments towards the outstanding balance and was never threatened with notices to quit or eviction. Accordingly, it is concluded that he has failed to establish that he is entitled to hardship relief based on that specific basis. The following analysis will be based on the second ground listed in his appeal.

The evidence provided by the appellant established that his income for 2022, \$35,439.00, was less than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 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 \$32,201.00 and \$38,640.00 is deemed to be able to afford a monthly premium of \$147.67 (5.0% of \$35,439.00/12). Table 4 of the Premium Schedule indicates that a 54-year-old individual (the age of the appellant in 2022) in Plymouth County (where the appellant resided in 2022) could have purchased private health insurance for \$422.00 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 2022.

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 \$147.67 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 2022. 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 2022 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 2022, he incurred basic monthly expenses of approximately \$3100.00, including his loan and credit card debt. Those expenses were more than his regular monthly pre-tax income of approximately \$2953.00, thereby making a subsidized insurance payment of \$147.67/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 foregoing, 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 2022 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 2022 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 2022.

**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: PA22-1296

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 29, 2024

**Decision Date:** February 11, 2024

### **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 29, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

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 30-years-old, is single and does not have children. In 2022, he had minimum creditable coverage (MCC) health insurance from April through June. He resided in Worcester County in 2022. (Testimony, Ex. 2)
2. In December, 2021, the payroll system of the appellant's then employer was hacked and employees did not receive pay for more than two months as a result. The appellant left the job in February, 2022, and began working for a school district in food services in March, 2022. He had employer health insurance from April through June at which time school closed for the summer and his health insurance ended. The cost of continuing the insurance through COBRA was approximately \$900.00/month which he could not afford. (Testimony)
3. The appellant investigated health insurance options through the Health Connector and was denied coverage because he was outside of the open enrollment period. It is not known whether he advised the

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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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

Connector that he was a seasonal employee and had lost his insurance due to the school calendar. (Testimony)

4. The appellant returned to work for the school district in September and remained employed for the rest of the year. The monthly cost for employer insurance was approximately \$600.00 which he determined was not affordable. He concluded that it was cheaper for him to pay for any medical expenses that came up out of pocket rather than through insurance. (Testimony)
5. In 2023, the appellant had health insurance from May through December through his then partner's employer health insurance. (Testimony)
6. The appellant reported an adjusted gross income of \$59,128.00 on his 2022 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 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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), but did not specify a particular ground for the appeal.

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 2022, 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 insured for the months of April through June, he was assessed and is appealing a penalty of three months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that he had employer insurance from April through June, 2022, after which he was on a seasonal layoff for the summer. He testified that the cost of continuing the insurance through COBRA was approximately \$900.00/month which he could not afford. He testified that he investigated insurance options through the Health Connector but was not eligible for coverage because he was outside of the open enrollment period. Finally, he testified that he returned to work for the school district in September, but did not enroll in insurance because he felt it was cheaper to pay for medical expenses as they arose rather than lock into a monthly premium of approximately \$600.00/month.

Since the appellant was unable to obtain health insurance when school ended in June due to closure of the open enrollment period,<sup>2</sup> the issue to be decided is whether he had access to affordable employer health insurance after that point.

The appellant provided information which indicated that the approximate cost for an individual plan through his employer was \$600.00 per month.<sup>3</sup> 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 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61% 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, the monthly cost for an individual plan through the appellant's employer was \$600.00. That cost is more than 9.61% of the appellant's projected household MAGI for 2022 (i.e. 9.61% of \$59,128.00 is \$5582.20 or \$473.52/month).<sup>4</sup> Hence, since the cost of employer insurance is more than \$473.52/month, he is considered not to have had access to qualifying health insurance.<sup>5</sup> See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Based on the foregoing, 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 2022 only and is based upon the extent of information submitted in this appeal.

### **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 2022 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.

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<sup>2</sup> I take administrative notice of the fact that the open enrollment period for health insurance for 2022 ended on January 23, 2022, for the commercial non-group market, and that closed enrollment ran from January 24, 2022, to October 31, 2022.

<sup>3</sup> Since the appellant appeared to have a firm recollection of the cost of employer insurance, no Open Record Request was made at the conclusion of the hearing for documentation from the employer regarding the cost and terms of its health insurance in 2022.

<sup>4</sup> A MAGI figure was not obtained at the hearing and the record was not held open for documentation to make that calculation. It is recognized that the federal adjusted gross income (AGI) is not the same number as MAGI since the latter number starts with AGI and then adds in certain income sources such as tax-exempt interest, taxable social security and foreign earned income. See 26 USC section 36B(d)(2)(b) and 956 CMR 12.04. Notwithstanding this discrepancy, based on the appellant's testimony, the two numbers were probably very close, if not the same, in which case it is not unreasonable to use the AGI number for purposes of this calculation.

<sup>5</sup> This same analysis applies to the cost of COBRA which the appellant testified cost approximately \$900.00/month.

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 2022.

**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: PA22-1297

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 29, 2024

**Decision Date:** February 15, 2024

### **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 29, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2022
- 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 27-years-old, is single and does not have children. (Testimony, Ex. 2)
2. Prior to 2022, the appellant had health insurance coverage under his father's plan. He turned 26-years old in August, 2022, and believed that his coverage would continue until then. (Testimony)
3. The appellant was employed in 2022 and had access to employer health insurance. During the 2022 open enrollment period in November, 2021, he declined enrollment based on the assumption that his coverage through his father would continue through August, 2022. (Testimony)
4. The appellant does not have a relationship with his father and was not aware that at some point prior to August, 2022, his father had quit his job and no longer had health insurance. It is not known when or how he was advised of the situation. He applied for employer insurance in September, 2022, but was unable 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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

enroll because he did not have a qualifying life event that would permit him to obtain insurance outside of the open enrollment period. (Testimony)

5. The appellant did not receive a Form 1099-HC for 2022 and contacted his father who was not responsive and could not inform him when his insurance had lapsed in 2022. As a result, he was unable to determine what coverage he had in 2022. (Testimony)
6. The appellant reported an adjusted gross income of \$87,567.00 on his 2022 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 fact that the open enrollment period for health insurance for 2022 ended on January 23, 2022, for the commercial non-group market, and that closed enrollment ran from January 24, 2022, to October 31, 2022.

### **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 2022 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 in part that he could not afford insurance because his expenses exceeded his income.

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 2022, 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. Although the appellant believed he had insurance for part of the year through his father, he was unable to support that claim with any documentation. Accordingly, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2022, he had been insured under his father’s plan and believed that would continue until he turned 26-years-old in August, 2022. He testified that he declined to enroll in his employer’s insurance for 2022 based on that assumption. He testified that at some point during the year he determined that his father had quit his job and no longer had insurance. He testified that was unable to enroll in employer insurance at that point because he did not have a qualifying event that would entitle him to obtain insurance outside of the open enrollment period. He testified that he did not receive a Form 1099-HC for 2022 and contacted his father for an explanation. He testified that his father could not provide any information as to when his insurance had lapsed in 2022, and as a result, he was unable to determine whether he had coverage during the year.

The appellant could not produce any documentation to support his contention that he had health insurance for any part of 2022 through his father. While his account strains credulity in some respects, he offered credible testimony that he had been insured through his father prior to 2022 and declined his employer’s insurance based on the assumption that the insurance would continue until he turned 26-years-old. The appellant’s lack of a relationship with his father prevented him from discovering that he may have had little to no coverage due to an

apparent job loss. This was underscored by the lack of a response from his father when he did not receive a Form 1099-HC and attempted to get an explanation from him.

Based on the totality of the evidence, it is concluded that the appellant's assumption that his insurance would continue through his father until he turned 26-years-old was not unreasonable given his prior history. It is further concluded that he made an effort to enroll in employer insurance after discovering that he was uninsured, and was not eligible either through his employer or on the private market because he did not have a qualifying event that would permit him to obtain insurance outside of the open enrollment period.

Accordingly, 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 2022 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 2022 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 2022.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant is advised that he should not rely on a similar extension of leniency should he be assessed and appeal a penalty in the future for not having health insurance.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1300

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 29, 2024

**Decision Date:** February 16, 2024

### **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 29, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

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. He did not have health insurance in 2022. He resided in Plymouth County, MA in 2022. (Testimony, Ex. 2)
2. Prior to 2022, the appellant last had health insurance for himself and his three children for part of 2021 through his employer. At some point during that year, the mother of the children decided that she wanted the children removed from his insurance plan in exchange for higher child support payments. Pursuant to a court order, the children were removed from the plan, and in the ensuing proceedings, he was inadvertently removed from his plan. He pursued the matter through the Attorney General's Office after which his insurance was reinstated providing he made back payments for the months of the improper removal. He could not afford to pay the amount in question and remained uninsured for the rest of the year. (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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.



3. The appellant was employed in 2022 and was eligible for employer health insurance. The monthly cost for an individual plan was approximately \$220.00 which he determined was not affordable. His monthly child support obligations had increased in 2021 as a result of the court order and he concluded that he could not manage a health insurance premium along with those payments. (Testimony)
4. The appellant did not have health insurance in 2023. He went to his local hospital for assistance with insurance options and determined that he was above income levels to qualify for MassHealth. He enrolled in employer health insurance for 2024. (Testimony)
5. The appellant reported an adjusted gross income of \$54,088.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)
6. In 2022, the appellant had regular monthly expenses of approximately \$2055.00 for rent (\$700.00), heat (\$150.00), electricity (\$150.00), internet and streaming service (\$70.00), automobile insurance (\$105.00), gas (\$280.00), and food (\$600.00). In addition, he paid \$1000.00/month for child support. (Testimony, Ex. 2)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2022](http://www.mass.gov/dor/docs/dor/health-care/2022), and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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 2022 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 summarized his weekly expenses and stated that his net pay after taxes and child support is \$490.00/week.

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 2022, 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 prior to 2022, he had employer health insurance for part of 2021. He testified that he did not enroll in employer insurance in 2022 because his child support payments had increased and he could not afford that expense and an insurance premium. He testified that he investigated insurance through MassHealth for 2023, but did not qualify because he was above income levels. Finally, he testified that he enrolled in employer insurance for 2024.

The first issue to consider is whether the appellant had access to affordable employer insurance in 2022. He provided information which indicated that the approximate cost for an individual plan through his employer was

\$220.00 per month.<sup>2</sup> 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 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61% 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, the monthly cost for an individual plan through the appellant's employer was \$220.00. That cost is less than 9.61% of the appellant's projected household MAGI for 2022 (i.e. 9.61% of \$54,088.00 is \$5197.86 or \$433.15/month).<sup>3</sup> Hence, since the cost of employer insurance is less than \$433.15/month, he is considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Even though employer 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 2022. 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 2022 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 2022, he incurred basic monthly expenses of approximately \$3055.00, including his child support payment. Although those expenses were less than his regular monthly pre-tax income of approximately \$4507.00, the difference between income and expenses of \$1452.00 was an inadequate cushion to cover a monthly premium of \$220.00 for employer health insurance, particularly in light of unforeseen expenses which inevitably arise. 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).

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<sup>2</sup> Since the appellant appeared to have a firm recollection of the cost of employer insurance, no Open Record Request was made at the conclusion of the hearing for documentation from the employer regarding the cost and terms of its health insurance in 2022.

<sup>3</sup> A MAGI figure was not obtained at the hearing and the record was not held open for documentation to make that calculation. It is recognized that the federal adjusted gross income (AGI) is not the same number as MAGI since the latter number starts with AGI and then adds in certain income sources such as tax-exempt interest, taxable social security and foreign earned income. See 26 USC section 36B(d)(2)(b) and 956 CMR 12.04. Notwithstanding this discrepancy, based on the appellant's testimony, the two numbers were probably very close, if not the same, in which case it is not unreasonable to use the AGI number for purposes of this calculation.

It is noted that the evidence does not suggest that the appellant was attempting to evade the purchase of insurance. Indeed, the fact that he was enrolled for part of 2021 and is currently enrolled demonstrates that the mandate to obtain insurance has not been lost on him.

Based on the foregoing, 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 2022 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 2022 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 2022.

**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: PA22-1336

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 12, 2024

**Decision Date:** February 28, 2024

### **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 12, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2022

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 29-years-old, is single and does not have children. In 2022, he had health insurance for the entire year. (Testimony, Ex. 1)
2. The appellant has worked for the same employer since 2019. When he first began employment, he had health insurance under his parents' plan. Since turning 26-years-old, he has been enrolled in employer health insurance . (Testimony)
3. The appellant was enrolled in employer health insurance for all of 2022. In early 2023, he received a 2022 Form 1099-HC which indicated that he did not have insurance coverage for any part of the year. He contacted the health insurance provider and was advised that the plan in which he had enrolled in 2022 did not comply with state minimum creditable coverage (MCC) standards because the deductible exceeded allowable limits by approximately \$200.00. (Testimony)

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Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

1

4. Until the aforementioned conversation, the appellant had never encountered an issue with his employer's insurance and was unaware that all insurance plans in the state were required to comply with MCC requirements. He had a subsequent conversation about the matter with his employer who apologized for the oversight. His employer advised him that the plan in which he was then currently enrolled was also non-compliant and he was allowed to switch to an MCC-conforming plan. (Testimony)
5. The deductible for the appellant's 2022 insurance was \$2100.00 and the appellant was advised that the maximum allowable deductible for that year was \$2300.00. (Testimony)
6. Massachusetts MCC-compliant plans must provide a broad range of medical services. There must be some level of coverage for the following services: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. There can be no limit on prescriptions drug benefits, the total amount paid for a particular illness or for benefits paid in a single year, or certain services such as a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges. There are also requirements regarding what a plan can charge for deductibles and in-network services. See 956 CMR 5.03. [Massachusetts Individual Mandate – Massachusetts Health Connector \(betterhealthconnector.com\)](https://www.betterhealthconnector.com)

#### **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 2022 for "other" reasons. He also submitted a letter with his statement in which he stated in part that he had employer health insurance for all of 2022.

The appellant did not have MCC compliant 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 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he has been working for the same employer since 2019 and has been enrolled in employer health insurance since turning 26-years-old. He testified that in 2023, he received a 2022 Form 1099-HC indicating that he did not have insurance coverage for any part of the year. He testified that he contacted the health insurance provider and was advised that his employer insurance did not comply with state MCC requirements because the deductible exceeded maximum allowable limits. He testified that he subsequently got in touch with his employer who apologized and allowed him to switch into a MCC compliant plan at that time. Finally, he testified that he was unaware of state MCC standards until that point and had no reason to believe that his insurance was non-compliant.

The appellant offered substantial and credible testimony which established that he was unaware that his 2022 employer insurance did not meet MCC standards until he received a blank Form 1099-HC in 2023. At that time, he was apprised by the insurer that the insurance was deficient because it exceeded the maximum allowable amount for the deductible. Upon learning of the situation, the employer apologized and allowed him to switch to a compliant plan for the remainder of 2023. Given the appellant's lack of knowledge of the deviation as well as the fact that he had insurance coverage (albeit deficient) for the full year, the penalty will be waived for the period in question.

Based on the totality of the evidence, the appellant's request for a waiver of the penalty is **granted** for the months in question. The determination that he is eligible for a waiver is with respect to 2022, 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 2022 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 2022.

**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: PA22-1423

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 20, 2024

**Decision Date:** February 29, 2024

### **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 20, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

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 53-years-old, is separated and has two minor children. In 2022, he had minimum creditable coverage health insurance for the month of January, and he resided in Plymouth County, MA. (Testimony, Ex. 2)
2. Prior to 2022, the appellant had health insurance through the Health Connector in 2021. At some point during the year, his premium was raised and he was unable to afford the cost after January, 2022. (Testimony)
3. The appellant was employed in 2022, but no health insurance was available through the employer. (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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant separated from his wife in 2021. In 2022, she moved to South Carolina with the two children in order to take care of her elderly parents. She did not have any income and the appellant sent her approximately \$700.00-\$1000.00/month to cover her expenses. (Testimony, Ex. 1)
5. In 2022, the appellant visited his children in South Carolina once every four-six weeks. He flew most of the time and occasionally drove. Typically, he incurred approximately \$200.00-\$300.00 on each trip in travel expenses. His children also visited him in Massachusetts and during those periods he would spend approximately \$175.00/week on food for them. (Testimony)
6. In 2022, the appellant's real estate taxes rose approximately 30% which caused an increase in his monthly mortgage payments. (Testimony, Ex. 1)
7. In 2022, the appellant was billed \$2139.00 for heating oil. (Testimony, Ex. 1)
8. The appellant's wife got a job in South Carolina in 2023 and enrolled the appellant and the children in her employer provided health insurance. (Testimony, Ex. 1)
9. The appellant reported an adjusted gross income of \$65,000.00 on his 2022 federal tax return, and reported that he was married filing separate with no dependents. (Ex. 2)
10. In 2022, the appellant had regular monthly expenses of approximately \$3449.00 for his mortgage which included real estate taxes and homeowner's insurance (\$1900.00), heat (\$178.00), electricity (\$120.00), internet and cable service (\$168.00), cell phone (\$120.00), automobile insurance for his and his wife's cars (\$243.00), gas (\$320.00), and food when the children were not staying with him (\$400.00). In addition, he paid \$103.00/month to the Internal Revenue Service (IRS) for a payment plan and \$204.00 for credit card debt. (Testimony, Ex. 2)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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 2022 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 in part that he supported his wife and children after they moved to South Carolina and incurred travel expenses when he visited them. He further stated that his mortgage increased due to a 30% rise in his real estate taxes.

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 2022, 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 eleven months, he was assessed and is appealing a penalty of eight months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that prior to 2022, he had health insurance through the Health Connector which he had to cancel after January because he could no longer afford to pay the increased premium. He testified that he separated from his wife in 2021 and she moved to South Carolina with the children in 2022 to take care of her elderly parents. He testified that he sent her approximately \$700.00-\$1000.00/month for her expenses and incurred travel expenses of \$200.00-\$300.00 every four-six weeks when he visited his children in South Carolina. Finally, he testified that he was enrolled in insurance in 2023 through his wife's employer.

The evidence provided by the appellant established that his income for 2022, \$65,000.00, was greater than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual married filing separately with no dependents with a federal adjusted gross income at or above \$51,121.00 is deemed to be able to afford a monthly premium of \$433.00 (8.00% of \$65,000.00/12). Table 4 of the Premium Schedule indicates that a 52-year-old individual (the age of the appellant in 2022) in Plymouth County (where the appellant resided in 2022) could have purchased private health insurance for \$422.00 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 2022.

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 2022. 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 2022 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 2022, he incurred basic monthly expenses of approximately \$4606.00, including his IRS and credit card payments, and the monthly payment of approximately \$850.00 to his wife for her living costs. Although those expenses were less than his regular monthly pre-tax income of approximately \$5417.00, the difference between income and expenses of \$811.00 was an inadequate cushion to cover a monthly premium of \$422.00 for private health insurance, particularly in light of the appellant's travel expenses as well as the additional costs he incurred for food when his children visited him. 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 foregoing, 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 2022 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

**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: PA22-1132

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** December 20, 2023

**Decision Date:** February 5, 2024

### **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, 2023. 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, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 4, 2023
- Exhibit 4: Open Record Request Documents

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-five years old and is single with one dependent. She lives in Norfolk County, Massachusetts. Appellant worked in the insurance business.
2. Appellant was unemployed for most of 2022. Her mother is her dependent. In order to pay her expenses, Appellant withdrew \$100,382.00 From her Iras. The Appellant's income for 2022 was \$46,846.00 (open records documents. In addition, Appellant had Health insurance for the months of October, November and December 2022 (open record documents).
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,463.00, consisting of rent \$760.00, internet & cable \$120.00 light \$50.00, cell phone \$85.00, car payment \$500.00 car insurance \$150.00. car gas \$100, credit card \$100.00 food \$400.00, clothing \$50.00 toiletries \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, 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 2022. 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 2022.
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 \$149,573.00 was more than \$52,260.00. The monthly premium for health insurance available on the private market in Norfolk County for a 45 year old single person with one dependent was \$889.00. The tables reflect that Appellant could afford \$997.14 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions) However, if the calculation is on her earned income of \$46,846.00 she could afford to pay only \$312.30.

## **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 unemployed for most of 2022. Her mother is her dependent. In order to pay her expenses, Appellant withdrew \$100,382.00 From her Iras. The Appellant’s income for 2022 was \$46,846.00 (open records documents. In addition, Appellant had Health insurance for the months of October, November and December 2022 (open record documents).

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, 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 2022, 150 percent of the FPL was \$26,130.00 for a single person with one dependent . *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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant had insurance for three months and pursuant to the above mentioned regulations Appellant is afforded three more months exemption from the penalty. Appellant reported a federal AGI of \$149,573.00.00 in 2022, and Appellant’s filing status was single with one dependent . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$997.154 monthly for health insurance. See 2022 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 \$888.00.00 monthly for coverage. *Id.* at Table 4. However, Appellant had to draw \$100,382.00 from her Iras to cover her living expenses. If Appellant's cost of health insurance was calculated on this amount of \$46,846.00, her cost of health insurance she could afford would be \$312.30, which is far less than the cost to her. Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that "based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship." *Id.* at 6.08(1).

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2022. 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 2022 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 2022 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 2022.

**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: PA21-2011

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2021 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 8, 2024

### **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 24, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-7-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-6-22) (with letter and documents) (11 pages); and
- Exhibit 4: Prior hearing notice (8-11-22) (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 29 during 2021, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for May through August of 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibit 2). Appellant was unemployed through March of 2021, and attempted to obtain health insurance through Mass Health but was denied. Appellant then had health insurance through an employer for May through August of 2021. Appellant then started new employment and was told there would be health insurance but it did not happen. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$46,818.00 (Exhibit 2).

4. Appellant's expenses for food, shelter, clothing, transportation, and other necessities used a lot of the Appellant's income. The monthly expenses totaled approximately \$3,275.00 or \$39,300.00 per year. (Testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$296.00.
7. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
8. 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 2021).
9. 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, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2021 and did not receive eviction notices. Appellant did not receive a shut-off notice 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 2021 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 have health insurance for May through August 2021, but did not have health insurance that met MCC for the remaining months of 2021. 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$46,818.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$296.00 per month; according to Table 4, Appellant, who was 29 years old in 2021, from Plymouth County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 for coverage per month for 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 paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used a lot of the Appellant's separate income. 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 2021 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 2021.

#### **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: PA22-1194

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 16, 2024

**Decision Date:** January 31, 2024

### **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 requested that the hearing be waived and that the decision be made based upon the documents and letter provided by the Appellant. Therefore, this decision is based on the letter and documents submitted by the Appellant. The hearing record consists of the Appellant's letter and the documents which were admitted into evidence:

Exhibit 1: Notice of Hearing (12-5-23) (2 pages);

Exhibit 2: Information from Schedule HC TY 2022 (1 page);

Exhibit 3: Statement of Grounds for Appeal (5-8-23) (with letter and documents) (16 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 36 during 2022, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January through April of 2022, but did not have health insurance for the remaining months of 2022. (Exhibit 2). Appellant was laid off in February 2022, and the income Appellant received for 2022 was from working until the layoff, and then from severance and paid out personal time. (Exhibit 3). Appellant experienced trauma, stress and burnout and was unable to collect unemployment due to inability to seek work. (Exhibit 3). Appellant was also unable to receive assistance as a result of Appellant's condition. (Exhibit 3).

3. Appellant's Federal Adjusted Gross Income for 2022 was \$54,864.00 (Exhibit 2). Appellant's income during 2022 was primarily from severance, and Appellant did not have a source of income after the layoff other than the severance. (Exhibit 3).
4. Appellant had experienced trauma and stress previously. (Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 for coverage. According to Table 3, Appellant was deemed to afford \$365.00, taking into account Appellant's total income, including the severance.
7. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
8. 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 2022).
9. Appellant claimed that they should be granted a waiver based on the grounds that Appellant was unable to obtain insurance after the layoff and unable to seek assistance due to trauma and stress, and that Appellant had health insurance for several months of the year. (Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice 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 2022 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 have health insurance for January through April of 2022, but did not have health insurance for the remaining months of 2022. They have been assessed a tax penalty for five 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income for Appellant of \$54,864.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$365.00 per month; according to Table 4, Appellant, who was 36 years old in 2022, from Norfolk County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$298.00 for coverage per month for 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 had health insurance for several months of 2022. Appellant also claimed that due to stress and trauma, Appellant was unable to seek work and unable to seek assistance. 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 2022 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: 5            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 2022.

#### **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: PA22-1196

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 16, 2024

**Decision Date:** January 31, 2024

### **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 16, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-5-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-1-23) (with documents) (12 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 35 during 2022, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2022, through the employer, but it did not meet minimum creditable coverage. (Appellant's testimony, Exhibits 2, 3). Appellant's employer provided health insurance that did not cover maternity coverage for dependents. Appellant's employer was an out of state employer and there are only about 3 employees in Massachusetts. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$84,086.00 (Exhibit 2).
4. Appellant requested that the employer provide health insurance that would meet minimum creditable coverage for Massachusetts, and the employer did finally agree to do so. (Testimony).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 for coverage. According to Table 3, Appellant was deemed to afford \$560.00.
7. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 2, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
9. Appellant claimed that they should be granted a waiver based on the grounds that Appellant had insurance that did not meet minimum creditable coverage but that was what was offered by the employer and it substantially met minimum creditable coverage. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice 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 2022 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 have health insurance for 2022, but it did not meet minimum creditable coverage. 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 not affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$84,086.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$560.00 per month; according to Table 4, Appellant, who was 35 years old in 2022, from Worcester County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$298.00 for coverage per month for 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 Appellant had insurance that did not meet minimum creditable coverage but that was what was offered by the employer and it substantially met minimum creditable coverage. The insurance met all requirements for minimum creditable coverage except that it did not provide maternity services for dependents. Appellant's employer has since changed the insurance to meet all requirements for minimum creditable coverage. 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 2022 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 2022.

#### **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: PA22-1241

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 8, 2024

## **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 24, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-7-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-14-23) (with letter and documents) (11 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 30 during 2022, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2022. (Appellant's testimony, Exhibit 2). Appellant's employer did not provide health insurance, although the employer kept promising to provide health insurance. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$51,970.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, and other necessities used a lot of the Appellant's income. The monthly expenses totaled approximately \$3,275.00 or \$39,300.00 per year. (Testimony).
5. Appellant now has health insurance through the partner's employer. (Testimony).



6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$346.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
10. Appellant claimed that they should be granted a waiver based on the grounds that the employer kept promising health insurance but did not provide it, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities, and that Appellant now has health insurance. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice 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 2022 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 2022. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$51,970.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$346.00 per month; according to Table 4, Appellant, who was 30 years old in 2022, from Plymouth County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 for coverage per month for 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 the employer kept promising to provide health insurance, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used a lot of the Appellant's income. 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 2022 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 2022.

#### **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: PA22-1244

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 8, 2024

### **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 24, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-7-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (undated) (with documents) (9 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 27 during 2022, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2022. (Appellant's testimony, Exhibit 2). Appellant's employer did not provide health insurance, and Appellant had gaps in employment during 2022. Appellant attempted to get health insurance through the Health Connector but did not believe the options they were given were affordable. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$48,526.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, and other necessities used a lot of the Appellant's income. The monthly expenses totaled approximately \$3,040.00 or \$36,480.00 per year. (Testimony).

5. Appellant now has health insurance through the spouse's employer. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$307.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
10. 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, clothing and other necessities, and that Appellant now has health insurance. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice 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 2022 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 2022. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$48,526.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$307.00 per month; according to Table 4, Appellant, who was 27 years old in 2022, from Suffolk County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 for coverage per month for 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 paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used a lot of the Appellant's income. 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 2022 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 2022.

#### **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: PA22-1245

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 24, 2024

**Decision Date:** February 8, 2024

### **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 24, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-7-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (5-15-23) (with letter and document) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 40 during 2022, from Essex County, filed single on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for 2022. (Appellant's testimony, Exhibit 2). Appellant's employer did not provide health insurance, and Appellant had gaps in employment during 2022. Appellant attempted to get health insurance through the Health Connector but did not believe the options they were given were affordable. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$77,506.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, daycare for Appellant's child and other necessities used a lot of the Appellant's income. The monthly expenses totaled approximately \$4,900.00 or \$58,800.00 per year. (Testimony).

5. Appellant now has health insurance through the partner's employer. (Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$318.00 for coverage. According to Table 3, Appellant was deemed to afford \$516.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
9. 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 2022).
10. 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, clothing and other necessities, and that Appellant now has health insurance. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice 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 2022 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 2022. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$77,506.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$516.00 per month; according to Table 4, Appellant, who was 40 years old in 2022, from Essex County, and filed the 2022 Massachusetts taxes as single with a family size of 2, would have had to pay \$318.00 for coverage per month for 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 paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used a lot of the Appellant's income. 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 2022 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 2022.

#### **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: PA22-1251

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 26, 2024

**Decision Date:** January 30, 2024

### **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 26, 2024. 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 7, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 1, 2023
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works in the automotive business. Appellant had health insurance in 2021 for the first time on his own. Appellant was told that when his renewal time occurred that he did not have to do anything, and his health insurance would be the same for the following year. Appellant left his job in October 2022 and was informed by his manager that he had thirty days to change health insurance plans. When Appellant applied for new health insurance he was informed that he did not have health insurance in 2022 because he did not file an application and would have to wait until the new enrollment period for the year 2023.
3. Appellant does have health insurance in 2023 and in 2024..
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “ During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.
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 2022. 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 2022.
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, because Appellant’s income of \$59,998.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Essex County for a 27 year old single person with one dependent was \$277.00. The tables reflect that Appellant could afford \$399.98 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 works in the automotive business. Appellant had health insurance in 2021 for the first time on his own. Appellant was told that when his renewal time occurred that he did not have to do anything, and his health insurance would be the same for the following year. Appellant left his job in October 2022 and was informed by his manager that he had thirty days to change health insurance plans. When

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “ During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. 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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$59,998.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$399.98 monthly for health insurance. See 2022 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 \$277.00 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).

On these facts, I find that Appellant has not shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2022 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 2022 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 2022.

**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: PA22-1291

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 29, 2024

**Decision Date:** February 5, 2024

## **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 29, 2024. 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 18, 2023

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated May 19, 2023

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-four years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant works in the medical business. Appellant was laid off from his position in March 31, 2022 until December 5, 2022. Appellant earned less than half of his normal income in 2022.
3. Appellant does have health insurance in the fall of 2023 and in 2024..
4. The Appellant's monthly expenses totaled \$2,191.00, consisting of rent \$1,000.00, heat & electricity \$200.00, cell phone \$77.00 car payment \$300.00, car insurance \$67.00, car gas \$100.00 food \$300.00, credit card \$200.00, clothing \$100.00, toiletries \$50.00, clothing \$100.00 .
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal " Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable". And should have applied under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear his 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 2022. 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 2022.
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, because Appellant's income of \$34,320.00 was less than \$38,640.00. The monthly premium for health insurance available on the private market in Worcester County for a 64 year old single person with one dependent was \$435.00. The tables reflect that Appellant could afford \$143.00 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 works in the medical business. Appellant was laid off from his position in March 31, 2022 until December 5, 2022. Appellant earned less than half of his normal income in 2022.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”. And should have applied under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear his 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 2022, 150 percent of the FPL was \$19,320.00 for a single person. 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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$34,320.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$143.00 monthly for health insurance. See 2022 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 \$435.00 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).

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2022 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 2022 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 2022.

**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: PA22-1292

**Appeal Decision** Appeal Allowed in Part

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 29, 2024

**Decision Date:** February 5, 2024

### **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 29, 2024. 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 18, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 7, 2023
- Exhibit 4: Written statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-three years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant worked in the food business. Appellant had a lot of credit card debt in 2022. He had a car accident and had to put the purchase of a car on his credit card. In addition his mother took out a loan of \$13,500.00, which Appellant paid off at the rate of \$1,125.00 per month.
3. Appellant does have health insurance in the fall of 2023 and in 2024.
4. The Appellant's monthly expenses totaled \$3,055.00, consisting of rent \$800.00, heat & electricity \$75.00, cell phone \$50.00 car payment \$476.00, car insurance \$150.00, car gas \$200.00 food \$100.00, credit card and mothers loan \$1,965.00, entertainment \$100.00 clothing \$10.00, dental \$169.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal "During 2022, 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 2022. 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 2022.
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 \$55,798.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 32 year old single person with one dependent was \$290.00. The tables reflect that Appellant could

afford \$371.98 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 worked in the food business. Appellant had a lot of credit card debt in 2022. He had a car accident and had to put the purchase of a car on his credit card. In addition his mother took out a loan of \$13,500.00, which Appellant paid off at the rate of \$1,125.00 per month.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “During 2022, 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 2022, 150 percent of the FPL was \$19,320.00 for a single person. 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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$55,798.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$371.98 monthly for health insurance. See 2022 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 \$290.00 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).

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2022. 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 APPROVED**, and the 2022 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 2022 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 2022.

**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: PA22-1062

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2022 Tax Year Penalty  
**Hearing Date:** December 13, 2023  
**Decision Date:** February 23, 2024

### **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 13, 2023. Also present was a duly sworn interpreter. 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: Statement of Grounds and supporting documents, dated April 26, 2023
- Exhibit 3: Correspondence from Health Connector, dated November 16, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 41 years old in 2022 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2022 of \$72,000 (Exhibit 1).
4. Appellant was covered by health insurance from January through June 2022 (Exhibit 1 and Testimony of Appellant).
5. Due to the cost and Appellant's circumstances, Appellant stopped paying the premium for the health insurance plan in June (Testimony of Appellant).
6. Appellant did not have health insurance during July through December 2022 (Testimony of Appellant).
7. Due to the Covid pandemic, Appellant's employment beginning in 2020 and continuing into 2022 was unstable (Testimony of Appellant).
8. During the pandemic and over the last few years, Appellant lived with four family members (Testimony of Appellant).
9. Appellant has helped to support the family members to make sure that all necessary expenses were covered (Testimony of Appellant).

10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

11. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents claimed with an adjusted gross income of \$72,000 could afford to pay \$480 per month for private insurance. According to Table 4, Appellant, who was 41 years old and lived in Middlesex County could have purchased private insurance for a cost of \$318 per month.

12. Private insurance was considered affordable for Appellant in 2022 (Schedule HC for 2022).

13. Appellant, earning more than \$38,640 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).

14. Appellant did not have health insurance for six months of 2022 (Exhibit 1 and Testimony of Appellant).

15. Appellant has been assessed a penalty for three months for 2022 (Exhibit 1).

16. Appellant filed a hardship Appeal on April 26, 2023 (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 2022, 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 three months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellant’s income was unstable in 2022 due to the Covid 19 pandemic. Appellant lived with several family members who were also struggling financially, and Appellant helped to support the family members and make sure that the necessary expenses were paid for. Considering Appellant’s circumstances in 2022, I find that for July through December 2022, Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2022, 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 2022 should be waived in its entirety.

### **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 2022 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 2022.

#### **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**

**This decision is based upon the facts as I have found them for 2022 and Appellant should not assume that a similar decision would be made if Appellant fails to have health insurance in future years.**

**If Appellant does not have health insurance, Appellant should contact the Health Connector at 1 877 623-6765 to find out about affordable options and enroll in health insurance as soon as possible.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221067

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2022 Tax Year Penalty  
**Hearing Date:** December 13, 2023  
**Decision Date:** February 20, 2024

### **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 13, 2023. 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 April 28, 2023
- Exhibit 3: Correspondence from Health Connector dated November 16, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 31 years old in 2022. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Hampshire County, MA in 2022 (Exhibit 1).
3. Appellant had an Adjusted gross income of \$63,958 for 2022 (Testimony of Appellant and Exhibit 1).
4. Appellant was self-employed from January through May 2022 (Testimony of Appellant).
5. Appellant purchased private health insurance coverage for January through May 2022 (Testimony of Appellant).
6. Appellant's health insurance for January through May 2022 met the Massachusetts Creditable Coverage standards (Exhibit 1).
7. Appellant began a job with an out of state employer in May 2022 (Testimony of Appellant).
8. Appellant began employer sponsored health insurance through the new employer, and was covered from May 16, 2022 to December 31, 2022 (Exhibits 1, 2 and Testimony of Appellant).
9. Appellant's employer sponsored health insurance provided coverage for a comprehensive set of services. The employer sponsored health insurance did not have caps on total benefits for a particular illness or for a single year and there were no caps on prescription drugs (Exhibit 2).



10. Appellant’s plan had a deductible of \$3,000 per year, which is slightly higher than the Massachusetts standard of \$2,750. The plan had an out-of-pocket limit of \$6,950 which meets the Massachusetts standard (Exhibit 2).
11. Appellant’s Appeal Case Information from Schedule HC 2021 shows that Appellant was uninsured for seven months in 2022 (Exhibit 1).
12. Appellant has been assessed a penalty for four months for 2022 (Exhibit 1).
13. Appellant filed an appeal on April 28, 2023 (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 2021, 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. 956 CMR 6.08 (2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

Appellant has been assessed a tax penalty for four months. Appellant was insured by a Health Insurance Plan that met Massachusetts Creditable Coverage Standards from January through May 2022. Appellant then continued to live in Massachusetts but began a job in another state. Appellant was then covered under the new employer’s employer sponsored health insurance. The health insurance was comprehensive and substantially met the Massachusetts Creditable Coverage standards. See 956 CMR 6, 2022 Massachusetts Schedule HC Healthcare, Exhibit 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

**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 2021 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 2021.

**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: PA22-1156

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2022 Tax Year Penalty  
**Hearing Date:** December 27, 2023  
**Decision Date:** February 28, 2024

### **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 27, 2023. 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: Statement of Grounds and supporting documents, dated May 1, 2023
- Exhibit 3: Correspondence from Health Connector, dated November 24, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 24 years old in 2022 and resided in Essex County (Exhibit 1).
2. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2022 of \$52,924 (Exhibit 1).
4. Appellant had previously had health insurance through a parent's plan, but that insurance was no longer available (Testimony of Appellant).
5. Appellant struggled financially in 2022 (Testimony of Appellant).
6. Appellant could not afford housing and Appellant slept on the couch of a family member (Testimony of Appellant).
7. Appellant contributed to household expenses when able (Testimony of Appellant).
8. Appellant had employer sponsored health insurance available but did not sign up due to the cost (Testimony of Appellant).
9. Appellant left the job in 2023 and began a job and became covered with employer sponsored health insurance that Appellant could afford (Testimony of Appellant).
10. Appellant was not covered by health insurance in 2022 (Exhibit 1 and Testimony of Appellant).

11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
12. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents claimed with an adjusted gross income of \$52,941 could afford to pay \$353 per month for private insurance. According to Table 4, Appellant, who was 24 years old and lived in Essex County could have purchased private insurance for a cost of \$277 per month.
13. Private insurance was considered affordable for Appellant in 2022 (Schedule HC for 2022).
14. Appellant, earning more than \$38,640 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).
15. Appellant did not have health insurance for twelve months of 2022 (Exhibit 1 and Testimony of Appellant).
16. Appellant has been assessed a penalty for twelve months for 2022 (Exhibit 1).
17. Appellant filed a hardship Appeal on May 1, 2023 (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 2022, 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 considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellant struggled financially in 2022. Appellant did not have housing and slept on the couch of a family member so that Appellant could meet basic living expenses. Appellant did obtain health insurance in 2023. Considering Appellant’s circumstances in 2022, I find that for 2022, Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2022, 956 CMR 6.08 (1)(a) and (1)(c), Exhibits 1, 2, and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2022 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 2022 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 2022.

**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: PA22-1211

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 19, 2024

**Decision Date:** February 13, 2024

### **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, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated December 5, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal dated April 17, 2023.
- Exhibit 4: Appellant's letter in support of the appeal.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated January 19, 2024.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 26 in 2022 filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant reported being a part year resident living in Middlesex County, MA for the period of August 26, 2022 through December 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$52,225 (Exhibit 2).
4. The Appellant did not have health insurance for the period of August 26, 2022 through December 31, 2022 (Exhibit 2)

5. The Appellant has been assessed a two-month tax penalty for 2022. The Appellant filed an appeal of the assessment in April 2023 and wrote that they did not know Massachusetts law and had limited funds when they came to Massachusetts in August 2022 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$52,225 could afford to pay \$350 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could have purchased private insurance for \$277 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in 2022.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$52,225 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that they moved to Massachusetts from Florida and did not know the rules regarding health insurance until they filed their tax return for tax year 2022. The Appellant was asked about their income and expenses and the Appellant testified that their parents helped with expenses, and they also had savings they used. The Appellant did not allege that they were without income for any period. The Appellant also testified that they had Cigna health insurance through their parent in Florida for all of tax year 2022 (Appellant Testimony).
10. The record was left open until February 5, 2024 to allow the Appellant to submit evidence of health insurance coverage through a parent in tax year 2022 (Exhibit 5).
11. The Appellant did not submit any additional evidence during the record open period.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2022 income tax return as a single person with no dependents. The Appellant reported being a part year resident of Massachusetts for the period of August 26 through December 31 2022 living in Middlesex county. The Appellant did not have health insurance for this period and consequently has been assessed a two-month penalty. The Appellant filed an appeal in April 2023.

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

In accordance with Table 3 of Schedule HC for 2022 the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$52,225 could afford to pay \$277 per month for health insurance. According to Table 4, the Appellant age 26, living in Middlesex County, could have purchased a private insurance plan for \$277 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income of \$52,225 that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant alleged in their appeal request that they did not know Massachusetts required health insurance and that they came to Massachusetts with limited funds and no income. At the Hearing, the Appellant testified that they were employed shortly after moving to Massachusetts. The Appellant was asked about living expenses and stated that they used savings and assistance from their parents. The Appellant did not submit any documentation of overdue bills or moving expenses.

Toward the end of the Hearing the Appellant testified that they had health insurance through their parent in Florida for all of tax year 2022. The record was left open until February 5, 2024 to allow the Appellant to submit evidence of their coverage. The Appellant did not submit any evidence during the record open period. Under these circumstances the Appellant has failed to demonstrate that they had health insurance coverage and/or that they were unable to purchase health insurance due to financial hardship. See 956 CMR 6.08. The Appellant's two-month tax penalty is upheld.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1230

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 19, 2024

**Decision Date:** February 8, 2024

### **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant and their authorized representative appeared at the hearing, which was held by telephone on January 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant and their authorized representative, who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant or their authorized representative. The hearing record consists of the testimony of the Appellant and their authorized representative and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (12 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 19, 2024 (2 pages).
- Exhibit 4: Executed Authorized Representative form (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 35 in December 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).



4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$56,589. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of April through December 2022. The Appellant was assessed a 6-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022, other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size; that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant submitted with their Statement of Grounds for Appeal a letter in which they stated that they started a new job in April 2022 and were told by their human resources department that they were not eligible for employer-sponsored health insurance during a probation period. The letter further stated that they checked back with their human resources department about health insurance after their probation period expired and were told that their opportunity to receive health insurance had lapsed and that they would not be eligible to enroll in health insurance until the 2023 enrollment period began. The letter stated that the Appellant appealed their employer's decision but received "minimal responses/communications." The Appellant attached to the letter communications from July 2022 with their employer concerning their inability to enroll in health insurance and their appeal. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$56,589 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$56,589, could have afforded to pay \$377 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 and above could have spent 8% of their earnings on health insurance; 8% of \$56,589 is \$4,527, and one-twelfth of \$4,527 is \$377.

11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 34 living in Middlesex County in April 2022, cost \$290 per month.
12. The Appellant's authorized representative testified that the Appellant had health insurance through a previous employer for January through March 2022, but that the Appellant started a new job as a driver for a national courier service in April 2022 and were told that they could not enroll in their new employer's health insurance until their 90-day probation period expired.
13. The Appellant's authorized representative testified that the Appellant did not receive written onboarding materials informing them of the deadline for enrolling in employer-sponsored health insurance. The Appellant's authorized representative testified that the Appellant works in a truck all day.
14. The authorized representative testified that the Appellant checked with the human resources department about enrolling in health insurance approximately 75-80 days into the probation period and were told that the enrollment period for health insurance in 2022 had expired. The authorized representative testified that the Appellant appealed their inability to enroll in health insurance for 2022, but their appeal was denied.
15. The authorized representative testified that the Appellant postponed going to doctors' appointments and suffered pain during 2022 because they did not have health insurance.
16. The authorized representative testified that the Appellant enrolled in employer-sponsored health insurance for 2023 and that they are currently insured.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a six-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during April through December 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-

10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's income exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant effectively did not have access to affordable health insurance meeting MCC standards through employment because the Appellant, through their authorized representative, credibly testified that the Appellant had a mistaken, good faith belief that they were not eligible to enroll in health insurance until their 90-day probation period had expired, and when they inquired about enrolling in health insurance toward the end of the probation period, they were told that the enrollment period had expired. Findings of Fact Nos. 12-14. I find that the Appellant's mistaken, good faith belief that they could not enroll in employer-sponsored health insurance until the end of their probation period in turn effectively blocked the Appellant from enrolling in such health insurance in a timely manner. I find the Appellant's testimony to be credible because they submitted written communications with their human resources department from July 2022 concerning their inability to enroll in health insurance and their subsequent appeal. (Exhibit 2). The communications show that the Appellant was anxious and upset about not having health insurance and was not trying to evade the individual mandate. (Exhibit 2).

Third, I find that the Appellant effectively could not have obtained health insurance on the private market. The Appellant would have had a qualifying event and been eligible for a special enrollment period in the 60 days after switching jobs and losing their previous employer-sponsored health insurance, but I find that during this period, the Appellant had a good faith belief that they would be able to enroll in health insurance through their new employer. 45 C.F.R. § 155.420. I find that this belief in turn effectively blocked the Appellant from exploring the purchase of health insurance on the private market. Then, after the special enrollment period expired, the Appellant would not have been able to enroll in private health insurance because the open enrollment period had closed.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's six-month tax penalty in its entirety because the Appellant did not have effective access to affordable health insurance meeting MCC standards through a government-subsidized program, employment, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

**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: PA22-1232

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 19, 2024

**Decision Date:** February 8, 2024

### **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant filed taxes as a head of household with one dependent in 2022. The Appellant appeared at the hearing, which was held by telephone on January 19, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 19, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a head of household with one dependent claimed. (Exhibit 1).
2. The Appellant turned 37 in March 2022. (Exhibit 1).
3. The Appellant lived in Barnstable County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$49,000. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$49,000 was less than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a head of household with one dependent claimed an adjusted gross income of \$49,000, could have afforded to pay \$377 per month for health insurance. The calculation is as follows: Table 3 states that a head of household with one dependent whose 2022 AGI was between \$43,551 and \$52,260 could have spent 7.4% of their earnings on health insurance; 7.4% of \$49,000 is \$3,626, and one-twelfth of \$3,626 is \$302.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a head of household with one dependent and living in Barnstable County in January 2022, would have cost \$756 per month for a family plan or \$298 per month for an individual plan.
11. The Appellant testified that their mother fell ill and moved into their home in August 2021. The Appellant testified that they were their mother's caregiver from August 2021 to August 2023, when their mother moved into an assisted living facility.
12. The Appellant testified that they were self-employed at their own company in 2022 but that they worked significantly fewer hours because of their caregiving responsibilities for their mother.
13. The Appellant testified that their company did not offer health insurance and that in addition to the Appellant, the company employed one part-time employee.
14. The Appellant testified that they did not enroll in health insurance in 2022 because their income was severely reduced and "something had to give." The Appellant testified that they dipped into their savings to pay for basic expenses in 2022.

15. The Appellant testified that they believed they were quoted a price of nearly \$400 per month by the Health Connector for health insurance in 2022, which the Appellant testified they could not have afforded.
16. The Appellant testified that they have a child who lives with them every other weekend and for more time during the summer.
17. The Appellant testified that they believed that their former spouse claimed their child on their 2022 tax return and that the dependent claimed on the Appellant's 2022 tax return was the Appellant's mother. The Appellant testified that they and their former spouse alternate the years on which they claim their child as a dependent on their tax returns.
18. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1733 for mortgage, homeowner's insurance, and property taxes; \$350 for electricity; \$110 for natural gas; \$110 for Internet; \$130 for car insurance; \$120 for gas; \$800 for food; \$100 for clothing; \$100 for toiletries and household supplies; \$85 for trash pickup; \$100 for their mother's medications; and \$867 for child support (based on \$200 per month). These expenses total \$4,605 per month, or \$55,260 per year.
19. The Appellant testified that they started a new job on January 1, 2024 that will provide them with health insurance after a 90-day waiting period.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in

coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that the small company that they owned did not offer health insurance. Findings of Fact Nos. 12 and 13.

Second, I find that the Appellant could not have obtained affordable health insurance meeting MCC standards through a government-subsidized program. The Appellant was eligible for government-subsidized health insurance because their AGI was less than 300% of the FPL. Finding of Fact No. 8. However, the Appellant credibly testified that their monthly expenses, which seem reasonable, totaled \$4,605, which amounted to \$55,260 per year and exceeded the Appellant’s AGI of \$49,000. Finding of Fact No. 18. As a result, I find that the Appellant could not have afforded health insurance, even on a subsidized basis.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$302 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive plan available to the Appellant, a head of household with one dependent, cost \$756 per month for a family plan and therefore was unaffordable to the Appellant. Findings of Fact Nos. 9 and 10. In addition, for the reasons stated in the preceding paragraph, the Appellant could not have afforded to pay \$298 per month for an individual plan. Finding of Fact No. 10.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s twelve-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program, employment, or the private market. Further, had the Appellant purchased health insurance, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e) and (3).

**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 2022.



**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: PA22-1233

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** January 19, 2024

**Decision Date:** February 9, 2024

### **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on January 19, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (7 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on January 19, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 27 in May 2022. (Exhibit 1).
3. The Appellant lived in Worcester County in 2022. (Exhibit 1) and Appellant Testimony.
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$27,058. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022, other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size; that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant submitted with their Statement of Grounds for Appeal a Form 1095-C showing that they were offered health insurance from their employer during every month in 2022 and that the required employee contribution in the months of January through June was \$225.15 and that the required monthly contribution for the months of July through December was \$240.36.
8. The Appellant also submitted a Form 1095-A showing that the Appellant had health insurance coverage throughout 2022 through a Rhode Island insurer, that the monthly premium was \$278.59, and that they received monthly advance payment of premium tax credits of \$170.04.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$27,058 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$27,058, could have afforded to pay \$65 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$19,321 and \$25,760 could have spent 2.9% of their earnings on health insurance; 2.9% of \$27,058 is \$784, and one-twelfth of \$784 is \$65.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 26 living in Worcester County in January 2022, cost \$277 per month.
13. The Appellant testified that they moved to Massachusetts from Rhode Island in January 2022 and had health insurance throughout the year through a Rhode Island-based health insurance plan.

The Appellant testified that they purchased this health insurance independently three or four years ago.

14. The Appellant testified that they were employed at the same employer throughout 2022 and that their employer offered health insurance, but that they could not afford it. The Appellant testified that their work hours fluctuated in 2022 and that their income was inconsistent.
15. The Appellant testified that they were unaware of Massachusetts' individual mandate and thought that they had adequate health insurance through their Rhode Island-based plan. The Appellant testified that their Rhode Island-based insurer knew that they had moved to Massachusetts and never told them that they needed different insurance. The Appellant testified that they went to multiple doctors appointments in 2022, all of which were covered by their insurance.
16. The Appellant testified that they looked at their 2022 bank statements during the hearing and that they paid \$109.38 for their health insurance in February 2022 and \$105.41 in December 2022.
17. The Appellant testified that they did not explore the possibility of obtaining subsidized health insurance in 2022 because they were enrolled in and paid for health insurance throughout 2022 and did not know that their insurance did not meet Massachusetts requirements.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant submitted a Form 1095-C from their employer showing that their required monthly contribution for employer-sponsored health insurance would have been \$225.16 or \$240.36 per month. (Exhibit 2). According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$65 per month for insurance. Finding of Fact No. 11. As such, employer-sponsored health insurance would have been unaffordable for the Appellant.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 4 of the Schedule HC, the least expensive health insurance plan the Appellant could have purchased on the private market would have cost \$277 per month. Finding of Fact No. 12. Since the Appellant could only have afforded to spend \$65 per month on insurance, this private insurance would have been unaffordable for them. Finding of Fact No. 11.

Third, I find that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program, given that the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 10. I find, however, that the Appellant effectively did not have access to this government-subsidized health insurance. The Appellant testified that they believed they had adequate health insurance, for which they paid between \$105.41 and \$109.38 per year. Findings of Fact Nos. 16 and 17. I find the Appellant's testimony to be credible because they submitted a Form 1095-A showing they had health insurance throughout the year for which the enrollment premium was \$278.59 and for which they received \$170.04 in monthly advance premium tax credits. (Exhibit 2). The difference between the Appellant's monthly premium of \$278.59 and their advance premium tax credits of \$170.04 is \$108.55, which is roughly what the Appellant testified they paid each month for their health insurance. Finding of Fact No. 16. I find that the Appellant's belief that they had adequate health insurance effectively blocked them from purchasing government-subsidized health insurance. They had no need to explore such insurance because they believed they already had adequate insurance. Further, I find that the fact that the Appellant paid around \$108.55 per month for health insurance, when Table 3 of the Schedule HC showed that they could only afford to pay \$65, shows that the Appellant was not trying to flout the individual mandate, but rather tried to obtain and maintain health insurance coverage.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have effective access to affordable health insurance meeting MCC standards through employment, the private market, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(2)(c) and (3).

**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 2022.

**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: PA22-1312

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 6, 2024

**Decision Date:** February 25, 2024

### **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on February 6, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on February 6, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 27 in December 2022. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$52,404. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant submitted with their Statement of Grounds for Appeal a letter in which they explained that they applied for health insurance through the Health Connector at the beginning of 2022 but ultimately could not afford to purchase health insurance because they needed to fix their vehicle and support their son, who was born in May. The Appellant further stated that they missed the cut-off for applying for health insurance through work in 2022 but that they enrolled in health insurance at the first opportunity they had in 2023.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$52,404 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$52,404, could have afforded to pay \$343 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$52,404 is \$4,121, and one-twelfth of \$4,121 is \$343.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 26 living in Plymouth County in January 2022, cost \$277 per month.
12. The Appellant testified that they began working at their job around November 2021 and missed the deadline to enroll in health insurance through their employer because they had a medical issue and were exploring what the insurance offered by their employer covered.
13. The Appellant testified that after missing the deadline for their employer-sponsored health insurance, they explored the possibility of enrolling in health insurance through the Health



Connector, but they never followed through on the inquiry because they had different priorities after their son was born in May 2022.

14. The Appellant testified that they were unmarried in 2022 and that their son was claimed on his mother's tax return.
15. The Appellant testified that they had health insurance through their employer throughout 2023 and are currently enrolled in employer-sponsored health insurance with the same employer, for which their contribution is \$234 per month. The Appellant testified that they did not know precisely how much their monthly contribution for employer-sponsored health insurance would have been in 2022, but that it might have been higher than \$234.
16. The Appellant testified that they had to pay \$5000 in car repairs in 2022 because their car needed a new engine, and it was not an option for them to purchase a new car.
17. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$800 for rent; \$150 for utilities; \$110 for cable/Internet; \$210 for car loan (in addition to car repair); \$130 for car insurance; \$200 for gas; \$200 for cellphone; \$300 for food; \$100 for toiletries and household supplies; and \$200 for expenses for their son.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$343 per month for insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased health insurance meeting MCC standards on the private market for \$277 per month. Findings of Fact Nos. 10 and 11.

Third, I conclude that the record is inconclusive as to whether the Appellant had access to affordable health insurance meeting MCC standards through employment. The Appellant testified that they could have obtained health insurance through the employment and that their current employer-sponsored health insurance costs them \$234 per month, but the Appellant testified that they did not know how much employer-sponsored health insurance would have cost them in 2022. Findings of Fact Nos. 12 and 15.

I find that while the Appellant theoretically could have obtained affordable health insurance meeting MCC standards on the private market and possibly through employment, such health insurance was not actually affordable to the Appellant because the Appellant suffered a hardship. The Appellant theoretically could have spent \$343 per month, or \$4116 per year, on health insurance in 2022, but the Appellant credibly testified that they spent \$5,000 on a car repair in 2022 and \$200 per month on their son after his birth in May 2022. I find that Appellant's car repair payment and payments to support their son effectively eliminated their ability to afford health insurance in 2022, and that had they purchased health insurance, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

#### **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 2022.

**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: PA22-1313

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 6, 2024

**Decision Date:** February 25, 2024

### **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellants were married persons filing jointly with no dependents claimed in 2022. The Appellants appeared at the hearing, which was held by telephone on February 25, 2024. The procedures to be followed during the hearing were reviewed with the Appellants, who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. I left the record open for the Appellants to provide additional evidence, which the Appellants so provided. The hearing record consists of the Appellants' testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellants (7 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on February 6, 2024 (2 pages).
- Exhibit 4: Open Record Request
- Exhibit 5: Form 1099-A showing health insurance coverage meeting MCC standards from March through August 2022.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly with no dependents claimed. (Exhibit 1).
2. Appellant #1 turned 27 in April 2022, and Appellant #2 turned 27 in June 2022. (Exhibit 1).

3. The Appellants lived in Suffolk County in 2022. (Exhibit 1).
4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2022 was \$93,486. (Exhibit 1).
5. According to the Appellants' Schedule HC, the Appellants did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from January through August 2022. The Appellants were each assessed a 5-month tax penalty. (Exhibit 1).
6. The Appellants did not check off a box on their Statement of Grounds for Appeal or provide any supplemental documentation. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellants' AGI of \$93,486 was more than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellants, who filed their federal tax return as married persons filing jointly with no dependents and claimed an adjusted gross income of \$93,486, could have afforded to pay \$623 per month for health insurance. The calculation is as follows: Table 3 states that married persons filing jointly with no dependents claimed whose 2022 AGI was \$69,681 and above could have spent 8% of their earnings on health insurance; 8% of \$93,486 is \$7,478, and one-twelfth of \$7,478 is \$623.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellants, both of whom were age 26 and living in Suffolk County in January 2022, cost \$554 per month.
11. The Appellants testified that they had health insurance in the months of January through August 2022.
12. The Appellants testified that for January and February 2022, they had insurance that they purchased on the federal marketplace when they were living in Virginia. The Appellants testified that they kept this insurance in Massachusetts because they were on a probation period for jobs that they started in October 2021.
13. The Appellants testified that for the months of March through August 2022, they had employer-sponsored insurance through an employer that had stores in Massachusetts. The Appellants testified that this insurance was provided by Blue Cross Blue Shield of California.

14. I left the record open for the Appellants to provide documentation showing that they were enrolled in health insurance from January through August 2022 that met Massachusetts' minimum creditable coverage requirements. (Exhibit 4).

15. In response to my open record request, the Appellants provided, among other documents, a Form MA 1099 HC showing that the Appellants were enrolled in health insurance meeting Massachusetts' minimum creditable coverage requirements for the months of March through August 2022. (Exhibit 5).

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

The case is before me on the Appellants' appeal from the DOR's assessment of a 5-month tax penalty because the Appellants' tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through August 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

In response to my Open Record Request, the Appellants submitted, among other documents, a Form MA 1099-HC showing that they had health insurance that met Massachusetts MCC requirements for the months of March through August 2022. Finding of Fact No. 15. As a result, I conclude that Appellant's five-month penalty should be waived because the Appellants in fact had health insurance meeting MCC requirements for the months in which they were penalized. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

### **PENALTY ASSESSED**

Appellant #1:

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

Appellant #2:

Number of Months Appealed: \_\_\_5\_\_\_      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 2022.

**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: PA22-1315

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 8, 2024

**Decision Date:** February 13, 2024

### **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, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 4, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal dated May 20, 2023.
- Exhibit 4: Appellant's letter in support of the appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 26 in January, 2022 filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$52,368 (Exhibit 2).
4. The Appellant had health insurance for the month of December but did not have health insurance for the months of January through November in tax year 2022 (Exhibit 2).
5. The Appellant has been assessed an eight-month tax penalty. The Appellant filed an appeal of the assessment in May, 2023 (Exhibits 2, 3, 4).



6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$52,368 could afford to pay \$349 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Norfolk County, could have purchased private insurance for \$277 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in tax year 2022.
8. The Appellant's employer offered health insurance for the period of January through August at a monthly cost of \$436.50. This is more than the \$349 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2022 (Exhibit 4 and Appellant Testimony).
9. The Appellant accepted a new job in September 2022. The Appellant's employer had a waiting period to enroll in health insurance. The Appellant enrolled for the month of December, but was not eligible for the months of September, October, and November (Appellant Testimony).
10. The Appellant was not financially eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$52,368 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Exhibit 2).
11. The Appellant testified that their adjusted gross income figure does not accurately reflect their financial circumstances for all of tax year 2022. The Appellant explained that for the period of January through August they were paid substantially less than for the period of September through December. The Appellant said that they took a new job in September with higher wages and enrolled in the employer sponsored insurance as soon as they were eligible. I found the Appellant to be credible (Appellant Testimony).
12. The Appellant's monthly living expenses of \$3,390 Included: rent-\$1,900; electricity-\$80; heat-\$125; car payment-\$212; car insurance \$183; gasoline-\$217; food- \$433; telephone-\$40 and student loan payments- \$200 (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2022 tax return as a single person with no dependents claimed. The Appellant had health insurance for the month of December but did not have health insurance for the period of January through November in tax year 2022. The Appellant has been assessed an eight-month penalty. The Appellant appealed the penalty in May 2023.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$52,368 could afford to pay \$349 per month for health insurance. According to Table 4, the Appellant, age 26, living in Norfolk County, could have purchased a private insurance plan for \$277 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant's employer offered health insurance at a monthly cost of \$436.50 during the period of January through August. This is more than the \$349 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2022. The Appellant changed jobs in September 2022 but due to the company waiting period was not eligible for employer sponsored health insurance until December 2022. The Appellant enrolled in December 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that the adjusted gross income figure does not accurately reflect their financial circumstances for all months of tax year 2022. The Appellant explained that for the first nine months of tax year 2022 their income was substantially less than for the last three months of the year. The Appellant changed jobs in September for higher wages and to be able to afford health insurance. The Appellant enrolled in the insurance offered by their new employer as soon as they met eligibility requirements. The Appellant testified to significant monthly expenses of approximately \$3,390 and indicated that it was difficult to meet these expenses for the period of January through August when their income was lower.

Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. The Appellant's eight-month penalty is waived in full. 956 CMR 6.08.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:   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 2021.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1316

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 8, 2024

**Decision Date:** February 13, 2024

### **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, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 4, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal dated May 15, 2023
- Exhibit 4: The Appellants' letter in support of the appeal.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 52 in May, 2022 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$57,708 (Exhibit 2).
4. The Appellant had health insurance for the period of January through June but did not have health insurance for the period of July through December in tax year 2022. The Appellant was assessed a three-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May 2023 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant, filing the Federal tax return as a single person with no dependent claimed, with an annual adjusted gross income of \$57,708 could afford to pay \$385 per month for health insurance. In accordance with Table 4, the Appellant, age 52, living in Worcester County, could have purchased private insurance for \$422 per month (Schedule HC for 2022). Private insurance was not affordable for the Appellant in 2022.
8. The Appellant was not eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$57,708 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they had employer sponsored health insurance for the first six months of tax year 2022. The Appellant explained that they lost their job. As of July, the Appellant said that they would have to pay \$671.22 monthly through COBRA to keep the insurance and they could not afford that high a payment. The Appellant's credible testimony is supported by documentary evidence submitted with the Appellant's appeal request (Exhibits 3, 4).
10. The COBRA insurance payment of \$671.22 was more than the \$385 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2022 (Exhibits 2, 4).
11. During the months of July through December in tax year 2022 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2022 (Exhibits 2, 3, 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependent claimed with an adjusted gross income of \$57,708 could afford to pay \$422 per month for health insurance. According to Table 4, the Appellant, age 52, living in Worcester County, could have purchased a private insurance plan for \$422 per month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant testified credibly that they had employer sponsored health insurance for the period of January through June in tax year 2022. The Appellant lost their job and the monthly COBRA payment for the period of July through December in tax year 2022 was \$671.22. This is more than the \$385 deemed affordable in accordance with Table 3 of Schedule HC for 2022.

The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$57,708 was greater than 300% of the federal poverty level, which was \$38,640 for a tax household of one in 2022.

The Appellant had no affordable health insurance available to them for the period of July through December in tax year 2022 through employment, the private market or through a government program such as ConnectorCare. Because of this, the three-month penalty for the Appellant must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2022.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for the Spouse's failure to have health insurance.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

**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: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1317

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 8, 2024

**Decision Date:** February 13, 2024

### **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, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 4, 2024
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 19, 2023.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 33 in December 2022 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$47,314 (Exhibit 2).
4. The Appellant had health insurance for all of tax year 2022, but the insurance did not meet Massachusetts minimum creditable coverage requirements (MCC) (Exhibits 2, 3, 4 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022. The Appellant filed an appeal of the assessment in May 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$47,314 could afford to pay \$300 per month for health insurance. In accordance with Table 4, the Appellant age 33, living in Middlesex County, could have purchased private insurance for \$290 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in 2022.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$47,314 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that they were employed by a Massachusetts employer in tax year 2022 and their employer offered health insurance. The Appellant explained that they paid \$50.22 per week for the basic plan offered, believing that this would be adequate coverage. The Appellant said that the insurance met their health care needs. The Appellant's credible testimony is supported by documentation submitted with the Appellant's appeal request including a Summary of Benefits (Exhibit 4 and Appellant Testimony).
10. The Appellant's 2022 monthly living expenses of \$2,455 included: rent-\$1,000; oil heat -\$325; electricity-\$150; telephone-\$50; car payment-\$200; car insurance \$167; gasoline-\$130 and food-\$433. The Appellant testified that during the winter months when the oil bill averaged \$500 per month, they had to use credit cards to pay the bills. The Appellant said that they could not afford to pay more for health insurance in tax year 2022 and be able to meet their living expenses. The Appellant also testified that they were waiting for a green card approval and did not want to contact any state agency for help in case it would negatively impact their status (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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



The Appellant had employer sponsored health insurance for all of tax year 2022. The health insurance they purchased did not meet Massachusetts MCC standards. The Appellant has consequently been assessed a twelve-month tax penalty. The Appellant has appealed the assessment.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$47,314 could afford to pay \$300 per month for health insurance. According to Table 4, the Appellant, age 33, living in Middlesex County, could have purchased a private insurance plan for \$290 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income of \$47,314 that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they were employed by a Massachusetts company and enrolled in the health insurance policy provided by their employer. The Appellant paid \$50.22 weekly for this coverage resulting in a monthly premium cost of \$217.60. The health insurance purchased by the Appellant did offer some benefits, but the \$7,050 annual deductible and coverage limits placed on some services did not meet MCC requirements.

The Appellant was deemed able to pay \$300 per month for health insurance in accordance with Table 3 for Schedule HC 2022. The Appellant paid \$217.60 monthly for the health coverage that did not meet MCC requirements. Given the Appellant's substantial living expenses, purchasing additional health insurance on the private market would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where

you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1339

**Appeal Decision:** The tax penalty is partially overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 13, 2024

**Decision Date:** February 28, 2024

### **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on February 13, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (9 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on February 13, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 55 in May 2022. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$36,391. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal. (Exhibit 2).
7. The Appellant submitted with their Statement of Grounds for Appeal a letter in which they stated that they were unemployed from January 1 to June 15, 2022 and had to borrow money to pay bills. The Appellant stated that when they got a job in June, they needed to use their earnings to catch up financially. The Appellant stated that they were able to afford insurance through their work on April 1, 2023.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$36,391 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$36,391, could have afforded to pay \$151 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$36,391 is \$1,819, and one-twelfth of \$1,819 is \$151.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 54 living in Plymouth County in January 2022, cost \$422 per month.
12. The Appellant testified that they were unemployed until June 2022 and did not receive any income, including unemployment compensation, during their period of unemployment.
13. The Appellant testified that they were offered health insurance when they started their new job and that they enrolled in it as soon as they could. The Appellant testified that they believed there was a 90-day waiting period for health insurance.
14. I reminded the Appellant of the letter they submitted with their Statement of Grounds for Appeal in which they stated that they enrolled in health insurance in April 2023. The Appellant

stated that they had difficulty remembering what happened, but that they believe that their letter was correct and that they enrolled in health insurance in April 2023.

15. The Appellant testified that the employee contribution for their employer-sponsored health insurance would have been approximately \$60 per week in 2022.
16. The Appellant testified that they currently have health insurance and are working at a different job than the one at which they started working in June 2022.
17. The Appellant testified that they believed they earned \$24 per hour at the job at which they started working in June 2022. The Appellant testified that they had mandatory overtime at the job and worked approximately 40-50 hours per week.
18. The Appellant testified that they guessed they could have afforded health insurance when they started working at their job in June 2022 but that they were trying to catch up on expenses from their period of unemployment and owed people money. The Appellant declined to elaborate further on the expenses that they incurred during their period of unemployment.
19. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$650 for household expenses, including food, and \$100 in car insurance. The Appellant testified that they also tried to pay others \$500 per month for debts they incurred during their period of unemployment.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in

coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$151 per month on health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards available to the Appellant would have cost \$422 per month and was therefore unaffordable to them. Findings of Fact Nos. 10 and 11.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant testified that employer-sponsored health insurance would have cost them approximately \$60 per week, which translates to \$260 per month. Finding of Fact No. 15. Because, according to Table 3 of the Schedule HC, the Appellant could only have afforded to spend \$151 per month on health insurance, this employer-sponsored health insurance would have been unaffordable to them. Finding of Fact No. 10.

Third, I conclude that the Appellant had access to affordable health insurance meeting MCC standards through a government-subsidized program because their income was less than 300% of the FPL. Finding of Fact No. 9. I conclude that this government-subsidized health insurance was not in fact affordable to the Appellant for the months of January through June 2022, when the Appellant was unemployed and had no income, and that if the Appellant had purchased such health insurance during these months, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. However, I find that the Appellant has not met their burden of showing that they suffered a hardship such that they could not have afforded government-subsidized health insurance in the months of July through December 2022.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s tax penalty for the months of January through June 2022 but to uphold the penalty for the months of July through December 2022. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

**PENALTY ASSESSED**

Number of Months Appealed:   12        Number of Months Assessed:   6  

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 2022.

**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: PA22-1343

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 13, 2024

**Decision Date:** February 29, 2024

## **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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

## **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on February 13, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on February 13, 2024 (2 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 33 in July 2022. (Exhibit 1).
3. The Appellant lived in Hampden County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$33,484. (Exhibit 1).



5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following boxes on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2022, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major extended illness of a child that required you to hire a full-time caretaker for a child." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$33,484 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$33,484, could have afforded to pay \$139 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$33,484 is \$1,674, and one-twelfth of \$1,674 is \$139.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 32 living in Hampden County in January 2022, cost \$311 per month.
11. The Appellant testified that toward the end of the summer of 2021, they separated from a person with whom they had been in a long-term relationship for 14 years. The Appellant testified that they had not worked when they were in this relationship and had been declared as a dependent on the other person's tax returns.
12. The Appellant testified that after they moved out of the home they shared in their relationship, their financial circumstances were difficult, and they moved in with their grandmother.

13. The Appellant testified that they worked throughout 2022 at a retail job that paid \$16.50 per hour.
14. The Appellant testified that their employer offered health insurance but that they could not afford it because the employee contribution was around \$300 per month.
15. The Appellant testified that they did not explore the possibility of obtaining subsidized health insurance because they had previously applied for MassHealth and had been rejected. The Appellant testified that they assumed they would be denied again.
16. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$300 for electric bill; \$300 for groceries; \$200 for cellphone; \$330 for car payment; \$100 for car insurance; \$160 for gas; \$120 for work clothing/uniform; and \$40 for household supplies and toiletries.
17. The Appellant testified that they currently do not have health insurance but that they recently started a new job and are waiting for the enrollment period for employer-sponsored health insurance to open.
18. I informed the Appellant about the possibility of subsidized health insurance and gave them the phone number for ConnectorCare.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in

coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$139 per month on health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards available to the Appellant would have cost \$311 per month and was therefore unaffordable to them. Findings of Fact Nos. 9 and 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant testified that employer-sponsored health insurance would have cost them approximately \$300 per month. Finding of Fact No. 14. Because, according to Table 3 of the Schedule HC, the Appellant could only have afforded to spend \$139 per month on health insurance, this employer-sponsored health insurance would have been unaffordable to them. Finding of Fact No. 9.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because their income was less than 300% of the FPL. Finding of Fact No. 8. The Appellant credibly testified that they did not explore the possibility of government-subsidized insurance because they had previously applied for, and been rejected by, MassHealth and that they assumed that they would be denied again. Finding of Fact No. 15. I find that the Appellant had a good faith belief that they would be deemed ineligible for government-subsidized health insurance and that this belief effectively blocked them from applying for it.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant’s 12-month tax penalty because they did not have effective access to affordable health insurance meeting MCC standards through employment, the private market, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

**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 2022.

## **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: PA22-1358

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 16, 2024

**Decision Date:** February 26, 2024

## **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 16, 2024. 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 January 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 20, 2022
- Exhibit 4: Written Statement of Appeal dated October 13, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-four years old and is married. He lives in Middlesex County, Massachusetts.
2. Appellant was unemployed for most of 2022. The appellant's wife is unable to work due to chemical inhalation and carpal tunnel syndrome. Appellant finally obtained employment in March of 2023. Appellant also received a notice to quit for his apartment and received a notice that oil would not be delivered.
3. Appellants did have health insurance in 2023 starting in November and in 2024.
4. The Appellant's monthly expenses totaled \$2,998.00, consisting of rent \$858.00, heat & light \$900.00, internet & cable \$125.00, cell phone \$300.00, car payments \$400.00, car insurance \$115.00, car gas \$200.00, credit card \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice" and "During 2022, you received a shut-off notice; or were shut off or were refused delivery of essential utilities (gas electric, heating oil, water, primary telephone). I will hear this appeal under all of these 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 2022. 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 2022.
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 \$69,645.00 was more than \$52,260.00. The monthly premium for health insurance available on the private market in Middlesex County for a 47 year old married person was \$636.00. The tables reflect that Appellant could afford \$441.05 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 unemployed for most of 2022. The appellant’s wife is unable to work due to chemical inhalation and carpal tunnel syndrome. Appellant finally obtained employment in March of 2023. Appellant also received a notice to quit for his apartment and received a notice that oil would not be delivered.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” and “During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice” and “During 2022, you received a shut-off notice; or were shut off or were refused delivery of essential utilities (gas electric, heating oil, water, primary telephone). I will hear this appeal under all of these 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 2022, 150 percent of the FPL was \$26,130.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2 penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$69,645.00 in 2022, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the

Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$441.05 Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$636.00 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 441.05 for health insurance coverage because of his income. Private insurance in the market place was \$636.00 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 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 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 2022 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 2022.

**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: PA22-1365

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2022 Tax Year Penalty

**Hearing Date:** February 12, 2024

**Decision Date:** February 14, 2024

### **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 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated January 8, 2024
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 25, 2023.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 27 in February and their Spouse age 26 in November 2022 filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Bristol County, MA in 2022 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$79,193 (Exhibit 2).
4. The Appellants had health insurance for all of tax year 2022, but the insurance did not meet Massachusetts minimum creditable coverage requirements (MCC) (Exhibits 2, 3, 4 and Appellant Testimony).
5. The Appellants have each been assessed a twelve-month tax penalty for 2022. The Appellants filed an appeal of the assessment in May 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$79,193 could afford to pay \$528 per month for health insurance. In accordance with Table 4, the Appellants with one person age 27, living in Bristol County, could have purchased private insurance for \$554 per month for a plan (Schedule HC for 2022). Private insurance was not affordable for the Appellants in 2022.
8. The Appellants would not have been eligible for ConnectorCare coverage in 2022 because the Appellants' income of \$79,193 was greater than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that they and their spouse were employed by a Massachusetts employer in tax year 2022 and their employer offered health insurance. The Appellant explained that they paid approximately \$110 per week for the BlueCross of North Carolina plan offered, believing that this would be adequate coverage. The Appellant said that they received an Email from the employer on March 9, 2023 informing them that the company's insurance did not meet MCC standards. The appellant said that the insurance met their health care needs. The Appellant's credible testimony is supported by documentation submitted with the Appellant's appeal request including a Summary of Benefits (Exhibit 4 and Appellant Testimony).
10. The Appellants were not eligible for ConnectorCare and could not afford to purchase affordable health insurance on the private market. The only affordable insurance available to the Appellants in tax year 2022 was the insurance offered by their employer at a monthly cost of \$477 (Exhibit 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

The Appellants filed their 2022 tax return as a married couple with no dependents. The Appellants had employer sponsored health insurance for all of tax year 2022. The health insurance they purchased did not meet Massachusetts MCC standards. The Appellants have each consequently been assessed a twelve-month tax penalty. The Appellants have appealed the assessment.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$79,193 could afford to pay \$528 per month for health insurance. According to Table 4, the Appellants with one person, age 27, living in Bristol County, could have purchased a private insurance plan for \$554 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellants in tax year 2022.

The Appellants would not have been eligible for ConnectorCare coverage based upon the household's income of \$79,193 that was greater than 300% of the federal poverty level which was \$52,260 for their household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria.

The Appellants did have employer sponsored health insurance for all of tax year 2022. The BlueCross insurance was purchased through an out of state company. The Appellants' employer did not inform them until March 9, 2023 that the insurance offered by the Massachusetts employer did not meet MCC standards. The Appellants paid \$477 monthly for the plan. This was the only affordable insurance available to the Appellants in tax year 2022.

The Appellants had no affordable health insurance that met MCC standards available to them in tax year 2022 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty for the Appellants must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellants experienced a financial hardship in 2022.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for the Spouse's failure to have health insurance.

**PENALTY ASSESSED**

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

Appellant Spouse:              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 2022.

**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