

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-705

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 8, 2021

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant/husband appeared at the hearing, which was held by telephone, on November 8, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 5/1/21 Appeal (15 pages)
- Exhibit 3: Plan Summary, Horizon BCBSNJ (11 pages)
- Exhibit 4: 10/14/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants' filing status for 2020 was Married Filing Joint with no dependents. The Appellants' federal AGI in 2020 was \$151,194. The Appellants turned thirty-six years old and thirty-one years old in 2020. (Exhibit 1)
2. The Appellants lived in Middlesex County in 2020. (Exhibit 1)
3. The Appellants appeal from the assessment of two two-month penalties on their 2020 income tax return checking off, "During 2020, 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," as the basis for their appeal. (Exhibit 2)
4. The Appellants had health insurance coverage through the Health Connector during the first seven months of 2020. (Exhibit 1; Appellant's testimony)

5. The Appellant/husband graduated from law school in 2019, passed the bar exam in early 2020, and worked for a law firm for five weeks before COVID hit and he was laid off. (Appellant's testimony)
6. The Appellant/wife worked at a national pharmacy store in 2020 from January to May. (Appellant's testimony)
7. During the first five months of 2020, the Appellants' income totaled \$20,000. (Appellant's testimony)
8. The Appellant/husband worked as an independent contractor for an out-of-state company in June and July 2020. (Exhibit 2)
9. On July 22, 2020, the out-of-state company hired the Appellant as a full-time employee, and the Appellants became eligible for the employer-sponsored coverage offered by his employer. (Exhibit 2)
10. The Appellants enrolled in the employer-sponsored coverage to replace their coverage through the Health Connector, because they were not aware of Massachusetts' MCC standards and, while the annual deductible was just \$200 more than their Connector plan, the out-of-pocket cost was \$2,500 less for the family. (Exhibit 2)
11. The Appellants became aware of the MCC requirements in December 2020, when the Appellant/husband's employer informed him that the Appellants' health insurance coverage through the employer did not meet Massachusetts standards and that the employer had only just now learned this. (Exhibit 2)
12. For 2021, the Appellant/husband's employer made an exception for him and offered a new plan that met MCC standards, and the Appellants enrolled in the plan. (Exhibit 2)
13. According to Table 2 of the 2020 Schedule HC Health Care, the Appellants did not qualify for government-subsidized health insurance in 2020, as their income was more than \$50,730 for a family size of two.
14. According to Table 3, Affordability, the Appellants could have afforded to pay up to \$1,008/monthly for health insurance coverage in 2020.
15. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$591/monthly, based on their age and county of residence.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

As both Appellants had health insurance coverage during the first seven months of 2020 and then had a three-month grace period to obtain new coverage, at issue here is the failure of the Appellants to have MCC coverage during the last two months of 2020.

Since the Appellants had health insurance coverage through the Health Connector during the first seven months of 2020, they clearly understood the importance of maintaining health insurance, to the extent that they were willing to pay for it during a period when their income was low and uncertain. I credit the Appellant/husband's testimony that the Appellants and the Appellant/husband's employer were not aware that their employer-sponsored coverage did not meet MCC standards until near the end of 2020; and, that his employer had taken steps, immediately and specifically for them, to offer a health insurance plan for 2021 that met MCC standards.

The Appellants made a good faith effort to have health insurance coverage throughout 2020, as they had coverage through the Health Connector during the first seven months of 2020 and, when it first became available, had purchased health insurance coverage for the rest of the year through the Appellant/husband's new employer, not knowing until December 2020 that the coverage did not meet MCC standards. At that point, it was too late for the Appellants to do anything with respect to their 2020 coverage.

Under these circumstances, I conclude that it would be unfair to assess any penalty against the Appellants for 2020. 956 CMR 6.08(2)(c)&(d)

Accordingly, the Appellants' four-month penalty for 2020 shall be waived in full.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-708

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 8, 2021

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 8, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/30/21 Appeal (16 pages)
- Exhibit 3: 1095-C Employer-offered coverage (1 page)
- Exhibit 4: 10/14/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$42,164. The Appellants turned sixty years old in 2020. (Exhibit 1)
2. The Appellants lived in Norfolk County in 2020. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty on her 2020 income tax return, checking off, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for her appeal. (Exhibit 2)
4. The Appellant did not have health insurance coverage during 2020. (Appellant's testimony)
5. The Appellant's 2020 monthly expenses for basic necessities included: rent, \$1,075; food/groceries, \$600; phone, \$50; clothing, \$50; consolidated loan payments, \$309; car loan, \$269; car gas, \$100; registration/inspection/M&R, \$175; credit card minimum payments, \$246; car insurance, \$109; utilities, \$87; and, cable/Internet, \$144, for total of \$3,214/monthly, and \$38,568 for the year. (Exhibit 2)

6. The Appellant worked full time at a clothing store from January 2020 until September 17, 2020, earning \$18/hour plus overtime; her employer did not offer health insurance coverage to employees. (Appellant’s testimony)
7. The Appellant left employment at the clothing store in September to take a position at the US Postal Service that offered individual health insurance coverage for a monthly premium of \$132; went through orientation classes in October; and, started working at her position on October 20, 2020. (Appellant’s testimony)
8. After four weeks of working in her position and realizing that the job was physically too much for her, the Appellant quit her job and was unemployed for the remainder of 2020. (Appellant’s testimony; Exhibit 2)
9. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as her income was more than \$37,470 for a family size of one.
10. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$261/monthly for health insurance coverage in 2020.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$432/monthly, based on her age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant has presented credible and persuasive evidence that she could not afford health insurance coverage in 2020, as doing so would have caused her a serious deprivation of basic necessities. She did not qualify for government-subsidized coverage as her 2020 income just barely exceeded the maximum to qualify; and, coverage in the private market for \$432/monthly far exceeded the \$261/monthly she could afford to pay.

In September 2020, the Appellant changed jobs in an effort to get employer-sponsored coverage through her new employer, the Postal Service. Postal Service jobs are physically very demanding, and I respect the Appellant’s effort to give it a try. But I am not surprised that she concluded within a few weeks that the work was not suitable for her.

Under these circumstances, I conclude that the Appellant experienced financial circumstances during 2020 such that the expense of purchasing insurance coverage would have caused her to experience a serious deprivation of basic necessities, under 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-915

**Appeal Decision** Appeal Approved

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

**Hearing Date:** December 17, 2021

**Decision Date:** December 20, 2021

### **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 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated November 12, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 10, 2021
- Exhibit 4: Written Statement of Appella Dated June 10, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-nine years old and is single. He lives in Essex County, Massachusetts.
2. Appellant worked in a travel company business. The company he worked for laid him off at the end of March 2020. He was re-hired in January 2021. Appellant received unemployment at the rate of about \$450.00 per week. Appellant's income from April 1, 2021 until December 31, 2021 was \$17,200.00 and would have been for a whole year \$23,400.00.
3. Appellant does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,748.00, consisting of rent \$925.00 heat & light 90.00, cable & internet \$68.00, cell phone 60.00, car payment \$160.00 car insurance \$330.00, car gas \$80.00, food \$400.00, credit card \$500.00, entertainment \$160.00 toiletries \$60.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$46,358.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Essex County for a 28 year old single person was \$268.00. The tables reflect that Appellant could afford \$293.60. 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 a travel company business. The company he worked for laid him off at the end of March 2020. He was re-hired in January 2021. Appellant received unemployment at the rate of about \$450.00 per week. Appellant’s income from April 1, 2021 until December 31, 2021 was \$17, 200.00 and would have been for a whole year \$23,400.00. Appellant had health insurance until he was laid off through his company. Appellant’s income after he was laid off would have allowed him to afford an amount of \$112.03 per month, and health insurance was available to him at a rate of \$268,00, which was more than Appellant could afford.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was

available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,358.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$293.60 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$268.00 monthly for coverage with zero dependents *Id.* at Table 4. However, most of his income was earned in the first three months of 2020 and then he was laid off. Appellant had far less income available to him in the last nine months of 2020.

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 2020. 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 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1168

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

**Hearing Issue:** Appeal of the 2019 Tax Year Penalty

**Hearing Date:** January 26, 2022

**Decision Date:** January 28, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant's appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2019 Signed by Appellant on 4/8/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 2(b):	Appellant's Documentation(1098-E) in Support of Appeal	(1 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/4/2022	(2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 33 in 2019, and lived in Hampshire County. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$34,955. (Exhibit 1).
3. Appellant opened his own law office in February 2019 and had startup expenses in the amount of approximately \$15,000. (Testimony).
4. Appellant had no income for approximately six (6) months. (Testimony).

5. Appellant had substantial student loan debt both public and private and was forced into forbearance. (Testimony, Ex. 2(b)).
6. Appellant investigated but could not afford the cost of government sponsored health insurance. (Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2019: Food: \$100, Car Insurance: \$83, Cable/Internet: \$70, Gas and Transportation Costs: \$200, Credit Card: \$150, Out of Pocket Medical RX and Appointments: \$360, Student Loan: \$600, totaling: \$1,563. (Testimony).
9. Appellant had business expenses of approximately \$2,500 per month. (Testimony).
10. According to Table 3 Appellant could have afforded \$145.65 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$250.00 per month.
11. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See Exhibit 1, 2(a) 1099HC).

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 2019, \$34,955.00 was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant could have afforded \$145.64 per month. According to Table 4, Appellant, age 33 and living in Hampshire County during the time he was being penalized for not having insurance, could have purchased insurance for \$250.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. There was credible testimony that the Appellant was self-employed and started his own law practice and investigated but could not afford government-sponsored program. (Appellant's Testimony). In this case, the Appellant credibly testified that he was self-employed and could not afford government-sponsored program was approximately \$300 per month. Thus, he did not have access to Employer Sponsored Insurance ("ESI").

Where the Appellant did not have access to ESI but did have access to insurance through a government-sponsored program, we need if the Appellant also experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2019 Food: \$100, Car Insurance: \$83, Cable/Internet: \$70, Gas and Transportation Costs: \$200, Credit Card: \$150, Out of Pocket Medical RX and Appointments: \$360, Student Loan: \$600, totaling: \$1,563. (Appellant's Testimony, Exhibits 2(a), (b)).

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. There was credible testimony that he experienced financial hardship and did not have adequate self-employment income until later in 2019 where he started a law office and would not have been able to afford to pay his monthly expenses of \$1,563.00 and afford the cost of purchasing private insurance for \$145.65 per month.

I find that pursuant to 956 CMR 6.08(1)(e),(3), this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a)(b), Testimony). Accordingly, where the Appellant did not have access to affordable coverage and also experienced a hardship, he is not subject to a penalty.

Appellant should note that any waiver granted here is for 2019 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**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.

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

**Hearing Issue:** Appeal of the 2019 Tax Year Penalty

**Hearing Date:** January 26, 2022

**Decision Date:** January 28, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 6/24/2021. (2 PP).
- Exhibit 2(a): Appellant’s Eviction Complaint in Support of Appeal (1 PP).
- Exhibit 2(b): Appellant’s Utility Notice in Support of Appeal (1 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 1/4/2022 (2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported they were married, filing joint, had zero (0) dependent in 2019, lived in Norfolk County, and had a family size of 2. (Exhibit 1, Testimony of Appellant).
2. Appellant’s Federal Adjusted Gross Income for 2019 was \$45,525 (Exhibit 1).
3. Appellant was in substantial arrears in their rent and utilities, were facing and eviction, could not afford to live in MA, and moved to Maine in July 2019. (Exhibit 2(a)(b), Testimony of Appellant).
4. Appellants were part year Massachusetts residents from January 2019 through July 2019. (Exhibit 1).
5. Appellant worked full time seasonal jobs and her Spouse worked part time in retail where he was paid minimum wage. (Testimony of Appellant).
6. Neither Appellant was offered employer sponsored insurance in 2019. (Testimony of Appellant).



7. Appellant investigated public sponsored insurance through the Connector but could not afford it given their rent arrears and eviction. (Exhibit 2(a)(b), Testimony of Appellant).
8. Appellant has been assessed a tax penalty for three (3) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2019: Rent: \$1,850, Food: \$300, Car Payment: \$400, Car Insurance: \$60, Cell Phones: \$180, Credit Card: \$250, Personal Loan: \$180, totaling: \$3,220. (Testimony).
10. Appellants were defending a summary process (eviction action) with \$2,375 in arrears. (Exhibit 2(a)(b), Testimony of Appellant).
11. Appellant was in substantial arrears in their utilities received a final utility notice with a bill amount of \$ 1,987. (Exhibit 2(a)(b), Testimony of Appellant).
12. According to Table 3 Appellant could have afforded \$278.84 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$514 per month.
13. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the poverty level, which was \$49,380.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three(3) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from January through July for their part year residence in Massachusetts. (See Exhibit 1, 2(a) 1099HC).

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

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

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

The evidence provided by the Appellant established that their income for 2019, \$45,525 was less than 300% of the federal poverty level, which for 2019 was \$49,380 for a married couple with a family size of two (2). According to Table 3 of Schedule HC for 2019, the Appellant could have afforded \$ 278.74 per month. According to Table 4, Appellant, ages 29 and 28 with zero (0) dependents and living in Norfolk County during the time they were being penalized for not having insurance, could have purchased insurance for \$514.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that neither her spouse was offered or had access to affordable ESI. She worked in seasonal jobs and her spouse worked part time in retail and paid minimum wage. (Appellant's testimony).

Where the Appellant did not have access to ESI and but did have access to insurance through a government-sponsored program, we need if the Appellant also experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2019 Rent: \$1,850, Food: \$300, Car Payment: \$400, Car Insurance: \$60, Cell Phones: \$180, Credit Card: \$250, Personal Loan: \$180, totaling: \$3,220. (Appellant Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. There was credible testimony which was corroborated that they were overdue in their rent payments as they were defending an eviction proceeding. The Appellant was in substantial arrears in their utilities received a final utility notice with a bill amount of \$ 1,987. (Exhibits 2(a)(b), Testimony). The Appellant experienced financial hardship and did not have adequate income to pay their monthly expenses of \$3,220.00 and afford the cost of purchasing private insurance for \$278.74 per month. I find that pursuant to 956 CMR 6.08(1)(a), (b) and (e), this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities, and is not subject to a penalty.

Appellant should note that any waiver granted here is for 2019 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:  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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-896**

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

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

**Hearing Date:** December 13, 2021

**Decision Date:** December 31, 2021

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 13, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated May 31, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated September 6, 2021.
- Exhibit 3: Letter from Appellant in support of appeal.
- Exhibit 4: Correspondence and portal screenshots from Appellant's insurer.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing dated November 10, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 27 years old and resided in Barnstable County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$54,250. (Exhibit 2).
3. Appellant submitted a Statement of Grounds for Appeal, dated May 31, 2021, and a letter in support of his appeal, claiming that in 2020 he purchased health insurance on the private market which he believed met minimum creditable coverage ("MCC") standards. (Exhibit 3).

4. Appellant did not have access to employer sponsored health insurance (“ESI”) in 2020. (Exhibit 3; Appellants’ Testimony).
5. Appellant sought private health insurance and enrolled in a private plan by or through an entity called American Online Benefits Group (“AOBG” or “AOGB Plan”) beginning in January of 2020, paying a premium cost of approximately \$239 per month from January through December of 2020. (Exhibits 3 and 4; Appellant Testimony).
6. In or around January of 2020, Appellant visited his primary care physician, who ordered a blood test. (Exhibits 3 and 4).
7. Sometime thereafter, Appellant received a bill from the blood lab, which began a frustrating series of exchanges between Appellant and AOBG regarding payment for this lab work, exchanges that extended until at least September of 2020. (Exhibits 3 and 4; Appellant Testimony).
8. In January of 2021, in preparation for taxes, Appellant requested from AOBG a Form 1095-B or another tax form showing Appellant’s MCC for 2020, and learned that AOBG would not be providing Appellant tax forms. (Exhibits 3 and 4; Appellant Testimony).
9. Appellant enrolled in a Health Connector plan with coverage beginning in January of 2021. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. For the reasons discussed below, I find that Appellant did not have MCC for 2020. Because Appellant had no MCC in 2020, the three-month grace period is inapplicable and Appellant is appealing a twelve-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated May 31, 2021, and a letter, claiming that in 2020 he purchased health insurance on the private market which he believed met Massachusetts MCC standards. (Exhibits 3 and 4).

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

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$54,250 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$54,250 was greater than 300% of the FPL, he was ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 27 and living in Barnstable County, \$269 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$54,250 could afford to pay \$362 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified his employer did not offer ESI, and as a 2019 holiday gift, offered to pay the Appellant's monthly premium cost for 2020 private health insurance. (Exhibit 3; Appellant Testimony). Appellant testified that the cost of an individual health plan through the Heath Connector was over \$600 per month, which his employer deemed "rather steep." (Exhibit 3; Appellant Testimony). Appellant testified that his employment was fairly recent and because he did not want to incur the ire of his new employer, he opted to find health insurance on the private market, albeit at a cost that was less expensive than the purported cost of insurance through the Connector. (Exhibit 3; Appellant Testimony). Appellant claims he enrolled in a plan with or through AOBG who told him his coverage was MCC-compliant. (Exhibit 3; Appellant Testimony). Appellant submitted AOBG payment history documents showing he made monthly payments for the entirety of 2020 of approximately \$239 for a plan including vision benefits, plus the monthly billing fee.

Shortly after enrolling in or around January of 2020, Appellant visited his primary care physician, who ordered a blood test. (Exhibits 3 and 4). Sometime thereafter, while AOBG paid the PCP's bill, Appellant

received a bill from the blood lab, which began a frustrating series of exchanges between Appellant and AOBG regarding payment for this lab work, exchanges that extended until at least September of 2020. (Exhibits 3 and 4; Appellant Testimony).

While preparing his taxes in January of 2021, Appellant requested from AOBG Form 1095-B or another tax form showing Appellant's MCC for 2020, learning at this time that AOBG would not be providing Appellant tax forms. (Exhibits 3 and 4; Appellant Testimony). The documents submitted by Appellant do not indicate definitively, nor was Appellant able to testify at hearing whether his insurance met MCC standards. Appellant's claim that the cost for the least expensive individual plan through the Health Connector was \$600 per month, this figure does not comport with the Tables and seems high, however, I will credit Appellant's testimony regarding this cost. When questioned why the significantly lower cost of his AOBG premium as compared with the Health Connector premium did not alert Appellant to the fact that he may be purchasing non-MCC, Appellant credibly stated that he thought the cost was lower because he did not select the "deluxe" AOBG plan. (Appellant Testimony). Given that Appellant opted to include an arguably extra cost to include a vision benefit in his AOBG plan, he faithfully paid his monthly premiums for the entirety of 2020, and because AOBG paid for Appellant's January 2020 PCP visit and eventually the blood work, I find reasonable Appellant's belief that he was enrolled in MCC plan. While the record does not show definitively whether the AOBG plan met MCC standards, based on Appellant's submitted documents showing that AOBG declined to provide him with a 1095-B form, instead directing him to his member portal showing his payment history, I conclude Appellant's coverage was not MCC-compliant. (Exhibit 4). I find credible Appellant's assertion that up until the time AOBG declined to send him a tax form, Appellant believed his coverage through AOBG was MCC.

Because Appellant reasonably believed he was enrolled in MCC, I conclude he is not subject to the individual mandate penalty for Tax Year 2020.

Accordingly, Appellants' appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against him 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 NOT be assessed a penalty for Tax Year 2020.

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

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

Hearing Officer

FINAL APPEAL DECISION: PA 20-908

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 15, 2021  
**Decision Date:** December 30, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

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

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

The record was left open until December 29, 2021, to submit documentation regarding monthly expenses. The Appellant submitted the following:

Exhibit 4: Financial Documentation/Spreadsheet with an itemization of monthly expenses.  
The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 31 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$82,061. (Exhibit 1).



3. Appellant without prior notification was laid off from her full-time employment in January 2020 with company paid COBRA through February 29, 2020. (Appellant's Testimony, Exhibits. 2(a), (b)).
4. Appellant began a contracted job in March which also abruptly ended in March because of Covid and that position does not offer employer sponsored insurance. ("ESI") (Appellant's Testimony).
5. Appellant could not afford COBRA of \$675 a month. (Appellant's Testimony, Exhibits. 2(a), (b)).
6. The Appellant investigated obtaining insurance through the Connector, but it was too expensive. (Appellant's Testimony).
7. Appellant received a severance which she used to pay her basic monthly living expenses. (Appellant's Testimony).
8. The Appellant contracted with a Health Insurer for a health benefit package only (no dental of vision) which was \$274.01 a month. (Appellant's Testimony, Exhibits. 2(a), (b), and 4).
9. The Appellant credibly testified she was concerned that she would not be able to pay her mortgage and car payment. (Appellant's Testimony, Exhibit 4).
10. The Appellant returned to a different contract position on August 31 through the remainder of the year with no benefits available. (Appellant's Testimony).
11. The Appellant testified she was compensated at \$40 an hour in her contract position. (Appellant's Testimony).
12. Appellant obtained insurance in March 2021 as soon as she was able. (Appellant's Testimony).
13. Appellant has been assessed a tax penalty for 7 months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
14. Appellant had the following average monthly living expenses in 2020: Mortgage: \$2,459.95, Auto \$509.02, Electricity: \$90.24, Car Insurance: \$124.83, Cell Phone: \$75, Internet: \$92.83, Cell Phone: \$55. (June-August), Credit Cards: \$500, Food/Incidentals \$300, totaling: \$4,206. (Appellant's Testimony, Exhibit 4).
15. In addition, the Appellant also had out of pockets medical expenses, auto maintenance, employment search related expenses, and other day to day expenses. in 2020. (Appellant's Testimony, Exhibit 4).
16. According to Table 3 Appellant could have afforded \$547.07 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$432.00 per month.
17. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2020, she purchased health insurance that didn't meet credible standards and she felt that her circumstances prevented her from buying other insurance that met the requirements. During the hearing, the Appellant also testified that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that her income for 2020, \$82,061.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$547.07 per month. According to Table 4, Appellant, age 59 and living in Bristol County during the time she was being penalized for not having insurance, could have purchased insurance for \$432 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified she thought she had insurance through her employer until she was laid off. Her new positions were contract positions without benefits. Thus, the Appellant did not have access to

Employer Sponsored Insurance (“ESI”) for the months she was not employed through the remainder of the year. (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Mortgage: \$2,459.95, Auto \$509.02, Electricity: \$90.24, Car Insurance: \$124.83, Cell Phone: \$75, Internet: \$92.83, Cell Phone: \$55. (June-August), Credit Cards: \$500, Food/Incidentals \$300, totaling: \$4,206. (Appellant’s Testimony, Exhibit 4).

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The Appellant was laid off without any notice. Given the Appellant’s sudden loss of income and reduced earnings because, she had to use her severance and unemployment income to meet her financial obligations for basic necessities. She immediately attempted to obtain employment to pay her basic living expenses which was then curtailed because of Covid. Her pay was a substantially reduced when she returned to work. I find the Appellant was reasonably concerned that she could not afford the cost of \$547.07 and appreciated the importance of the mandate, and rather than be uninsured, she procured insurance that was affordable but did not meet minimal credible coverage, instead of not being insured. The Appellant did not have adequate income to afford the cost of purchasing private insurance for \$547.07 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a), (b), Appellant Testimony). The mandate has not been lost on the Appellant as she obtained ESI as soon as she could in March 2021.

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

**PENALTY ASSESSED**

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

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

FINAL APPEAL DECISION: PA 20-921

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

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

**Hearing Date:** December 15, 2021

**Decision Date:** December 22, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 6/10/2021. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/12/2021 (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 31 in 2020, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$24,775. (Exhibit 1).
3. Appellant was employed full time where she was paid \$18 an hour until Covid and was out of work for approximately four (4) months. (Appellant's Testimony, Exhibits. 2(a), (b)).
4. Appellant's collected unemployment at \$360 a week. (Appellant's Testimony).
5. The Appellant returned to a different job/industry in August where she was a restaurant server, but the hours and compensation varied. (Appellant's Testimony).

6. The Appellant testified her weekly income as a server was between \$400 and \$500. (Appellant's Testimony).
7. The Appellant testified she had insurance through part of the year with her employer but lost it during Covid. (Appellant's Testimony).
8. The Appellant's subsequent employer did not offer health insurance. (Appellant's Testimony).
9. The Appellant investigated MassHealth, but she was denied. (Appellant's Testimony).
10. The Appellant thought she applied and didn't think she would be eligible for Connectorcare. (Appellant's Testimony).
11. Appellant obtained MassHealth in 2021. (Appellant's Testimony).
12. Appellant has been assessed a tax penalty for 12 months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
13. Appellant had the following average monthly living expenses in 2020: Rent: \$950, Cell Phone: \$162, Internet: \$70, Car Insurance: \$350, Credit Cards: \$200, Food \$200, totaling: \$1,932. (Appellant's Testimony).
14. According to Table 3 Appellant could have afforded \$59.83 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$288.00 per month.
15. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
16. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

The evidence provided by the Appellant established that her income for 2020, \$24,775.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$59.83 per month. According to Table 4, Appellant, age 31 and living in Worcester County during the time she was being penalized for not having insurance, could have purchased insurance for \$288 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified she thought she had insurance through her employer until she left because of Covid. Her new employer where she began work in August did not offer health insurance. Thus, the Appellant did not have access to Employer Sponsored Insurance (“ESI”) for the months she was not employed through the remainder of the year. (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent: \$950, Cell Phone: \$162, Internet: \$70, Car Insurance: \$350, Credit Cards: \$200, Food \$200., totaling: \$1,932. (Appellant’s Testimony)

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. Given the Appellant's loss of and reduced earnings because of Covid, her receiving unemployment income of approximately \$360 a week for a period when she was unemployed, and her net take home pay of approximately \$400-500 a week when she returned to work, she did not have adequate income to afford the cost of purchasing private insurance for \$59.83 per month given her monthly expenses of \$1,932. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2, Appellant Testimony). The mandate has not been lost on the Appellant as she obtained insurance through MassHealth in 2021.

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

### **PENALTY ASSESSED**

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

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

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

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

Cc:    Connector Appeals Unit

Hearing Officer

### **ADDENDUM**

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



FINAL APPEAL DECISION: PA 20-931

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

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

**Hearing Date:** December 7, 2021

**Decision Date:** December 17, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 7, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- |               |   |           |
|---------------|---|-----------|
| Exhibit 1:    | Appeal Case Information from Schedule HC.                             | (1 page). |
| Exhibit 2:    | Statement of Grounds for Appeal 2020 Signed by Appellant on 6/5/2021. | (2 PP).   |
| Exhibit 2(a): | Appellant's Statement in Support of Appeal                            | (1 PP).   |
| Exhibit 2(b): | Appellant's Documentation in Support of Appeal                        | (4 PP).   |
| Exhibit 3:    | Health Connector's Notice of Hearing dated 11/15/2021                 | (2 PP).   |

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 38 in 2020, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$50,214. (Exhibit 1).
3. Appellant was employed until January when she left her employer and commenced work as an independent contractor. (Appellant's Testimony, Exhibits. 2(a), (b)).
4. Appellant's Weekly net take home pay was approximately \$600 per weekly pay period. (Appellant's Testimony).

5. The Appellant's Employer Agency and the Employer she was placed was contracted with did not offer health insurance.
6. Appellant anticipated being hired into a full-time position with employer sponsored insurance ("ESI"), but the position ended during Covid. (Appellant's Testimony).
7. Appellant was a new immigrant arriving in 2018, and had employer sponsored insurance in 2019 prior to leaving her employment but did not realize there was a mandated health insurance (Appellant's Testimony, Exhibits 2(a), (b)).
8. Appellant obtained Connectorcare in 2021 and subsequently ESI. (Appellant's Testimony, Exs. 2(a)(b)).
9. Appellant has been assessed a tax penalty for 12 months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
10. Appellant had the following average monthly living expenses in 2020: Rent: \$850, Utilities: \$120, Phone: \$42, Internet: \$60, Car Insurance: \$228, Car Payment: \$ 354, Credit Card: \$150, Transportation \$50, Food \$300., totaling: \$2,154. (Appellant's Testimony).
11. According to Table 3 Appellant could have afforded \$334.76 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$298.00 per month.
12. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
13. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming Other: "As a new immigrant [she] was not aware of the Health Connector", and that during 2020 that her circumstances prevented her buying other insurance that met minimal creditable coverage. During the hearing, the Appellant also testified that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that her income for 2020, \$50,214.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$50,214 in 2020 and could have afforded \$334.76 per month. According to Table 4, Appellant, age 38 and living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$298 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified she left her employer in January 2020 for contract employment through an agency that did not offer ESI, nor did the Employer for whom she was contracted. Thus, the Appellant did not have access to Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2020: Rent: \$850, Utilities: \$120, Phone: \$42, Internet: \$60, Car Insurance: \$228, Car Payment: \$ 354, Credit Card: \$150, Transportation \$50 per month, Food \$300., totaling: \$2,154. (Appellant’s Testimony)

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. Given the Appellant's \$2,154 in monthly expenses, with a temporary contract job ending because of Covid, and her net take home pay of approximately \$600 a week, she did not have adequate income to afford the cost of purchasing private insurance for \$298 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a), Appellant Testimony). The mandate has not been lost on the Appellant as she obtained insurance through the Connector and her Employer during 2021.

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

### **PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

Hearing Officer

### **ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-937

**Appeal Decision:** The penalty is upheld  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 20, 2021  
**Decision Date:** January 17, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 20, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 6/5/2021. (2 PP).
- Exhibit 2(a): Apartment Rental Contract-Out of State-unsigned (1 P).
- Exhibit 2(b): Consulting Employment Agreement dated 11/21/201 (1 P).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/15/2021 (2 PP).

The record was left open until January 15, 2022, for the Appellant to documentation for proof of Out of state expenses for apartment and signed lease. On January 4, 2022, the Appellant submitted the following:

- Exhibit 4: Email dated 1/4/22 from the Appellant to the Connector regarding out of state apartment and Boston invoices for residence. (1 P).
- Exhibit 5: Out of State Lease and addendums
- Exhibit 6: Property insurance binder for Tenancy Binder: annual premium \$60.00 (2PP)

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 42 in 2020, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$198,893. (Exhibit 1).
3. Appellant was employed as a consultant and was not sure he had access to Employer Sponsored Insurance("ESI") but testified that he did not know the amount of the monthly premiums and that he could not afford the cost of insurance. (Appellant's Testimony).
4. Appellant testified that as part of his employment he resided in Georgia for the first 3 months of 2020, and then returned to Massachusetts during Covid. (Appellant's Testimony).
5. Appellant testified he was under a lease for the Georgia apartment for six (6) months in 2020 and paid \$2,000 a month plus expenses in addition to a payment of a mortgage and expenses on his Massachusetts property. (Appellant's Testimony, Ex 2(a)).
6. Appellant testified he investigated obtaining private and employer sponsored insurance through the Connector but could not afford same given his paying for out of state monthly expenses (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for seven (7) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant testified he remained a Massachusetts resident in 2020. (Appellant's Testimony).
9. Appellant had the following average monthly living expenses in 2020: Mortgage: \$2,500, GA rent: \$2,000, Utilities-MA \$100, GA \$120, Car Insurance: \$166, Travel: \$600, Cable Internet: \$60(MA), GA: \$100, totaling: \$5,646. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$1,325.95 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
11. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2020 because he didn't reside in Massachusetts during his period of un-insurance. G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that his income for 2020, \$198,893.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$1,325.95 per month. According to Table 4, Appellant, age 42 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$316.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did have access to Employer Sponsored Insurance ("ESI") but that he did not know the amount of the monthly premiums. Notwithstanding not knowing the cost of the premiums, he testified that he could not afford the cost of insurance. Thus, where the Appellant the Appellant testified that he did have access ESI but did not know the amount of the premiums, I find that the Appellant, given his income of \$198,893, had access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

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

2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant testified that he had the following average monthly living expenses in 2020: Mortgage: \$2,500, GA apartment rent: \$2,000, Utilities-MA \$100, GA \$120, Car Insurance: \$166, Travel: \$600, Cable Internet: \$60(MA), GA: \$100, totaling: \$5,646 (Appellant's Testimony).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant was working and had access to ESI but did not know the amount of the premiums and that he now has coverage under his ESI, but did not testify to the cost, I find he had access to affordable ESI through employer. In the alternative, the Appellant could have afforded a private plan in the amount of \$1,325.95 per month. Accordingly, the Appellant did not meet his burden that he did not have adequate income given his monthly expenses to afford the cost of purchasing private insurance for \$1,325.95 per month. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities.

## **PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

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



FINAL APPEAL DECISION: PA 20-987

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 30, 2021  
**Decision Date:** December 31, 2021

**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 30, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 6/12/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(2 PP).
Exhibit 2(b):	Appellant's Documentation in Support of Appeal	(10 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/17/2021	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 27 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$44,752. (Exhibit 1).
3. The Appellant net take home pay was approximately \$600 a week. (Appellant's Testimony.)
4. The Appellant testified that he was not able to afford the cost of employer health insurance ("ESI") which was approximately \$250 a month. (Appellant's Testimony).

5. The Appellant attempted to apply for insurance through the Connectorcare but it took some time to submit documents and with the assistance from his Mother to apply and enroll. (Appellant's Testimony, Exhibit 2(a)).
6. The Appellant assisted his mother with unexpected financial and other support who suffered loss of income due to a medical condition and procedure. (Appellant's Testimony, Exhibit 2(a)).
7. Appellant obtained Connectorcare in 2021. (Appellant's Testimony, Exhibit 2(a)).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2020: Rent/Support: \$400, Car Insurance: \$300, Gas: \$160, Food/Incidentals: \$250, Cell Phone: \$150, totaling: \$1,260. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$283.42 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and claimed that the individual mandate did not apply to him during 2020 because of other proof.

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$44,752.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$283.42 per month. According to Table 4, Appellant, age 27 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee's contribution for an individual plan is 9.78 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was approximately \$250.00. (Appellant's Testimony). This cost is less than the affordability Table 3 of Schedule HC for 2020, where the Appellant could have afforded \$283.42 per month. Hence, he is considered to have had access to qualifying ESI health insurance. Thus, the Appellant did have access to access to employer ESI.

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

The Appellant had the following average monthly living expenses in 2020: Rent/Support: \$400, Car Insurance: \$300, Gas: \$160, Food/Incidentals: \$250, Cell Phone: \$150, totaling: \$1,260. (Appellant's Testimony).

I find that although the Appellant did have access to affordable coverage, he is not subject to a penalty where he adduced evidence that he experienced a financial or other hardship under 956 CMR 6.08 (1)(d).3 and (3) as defined by law so as to waive his penalty for the months in question. Given the Appellant's financial support of his mother whose income was affected, I find his penalty should be waived. The mandate has not been lost on the Appellant as he attempted to obtain insurance in 2020 and did obtain insurance in 2021.

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

### **PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

Hearing Officer

### **ADDENDUM**

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

FINAL APPEAL DECISION: PA20-1008

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

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

**Hearing Date:** December 21, 2021

**Decision Date:** January 7, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 6/7/2021. (2 PP).
- Exhibit 2(a): Appellant's Statement in Support of Appeal (1 PP).
- Exhibit 2(b): Appellant's Documentation in Support of Appeal (Insurance Card) (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/23/2021 (2 PP).

The record was left open until January 15, 2022, for the to provide evidence/documentation of insurance coverage through the Appellant's Father's Employer Sponsored Insurance from 2020. And documentation of the Appellant's insurance.

On December 28, 2021, the Appellant submitted the following

- Exhibit 4: Email from Appellant regarding Appellant's Father's Employer Sponsored Insurance.
- Exhibit 5: Correspondence to the Appellant dated December 21, 2021 from Health Insurer referencing the Appellant's enrollment in 2020.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 23 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$29,848. (Exhibit 1).
3. Appellant credibly testified and corroborated with documentation that he was insured under his father's health insurance plan in 2020. (Appellant's Testimony, Exhibits 2(a), 4, and 5).
4. Appellant was employed full time but did not investigate obtaining ESI because he had insurance through his father. (Appellant's Testimony).
5. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
6. According to Table 3 Appellant could have afforded \$104.47 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
7. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
8. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and testified that the individual mandate did not apply to him during 2020 because he was covered under his father's employer sponsored insurance.

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$29,848.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$29,848 in 2020 and could have afforded \$104.47 per month. According to Table 4, Appellant, age 23 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$269.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified that he did not investigate insurance through his employer because he was covered under his father's insurance. (Appellant's Testimony, Exhibit 2(a).

The evidence presented by the Appellant in this case is sufficient to establish that he was covered under his father's insurance and the penalty shall be waived. The Appellant credibly testified and corroborated with documentation that he was insured under his father's health insurance plan in 2020. (Appellant's Testimony, Exhibits 2(a), 4, and 5).

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

## **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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



FINAL APPEAL DECISION: PA20-1013

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

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

**Hearing Date:** December 21, 2021

**Decision Date:** January 31, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on November 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

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

The record was left open until January 21, 2021, for the Appellant to submit documentation Documentation of correct income amended returns as well as evidence of monthly expenses and receipts

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married but filing separately with a family size of 2, was age 40 in 2020, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$129,464. (Exhibit 1).
3. Appellant testified that the income was not correct because the tax software he used was incorrect and included his spouse's income. (Appellant's Testimony, Ex 2(a)).

4. The Appellant testified his income tax was flagged and that he has filed amended returns which have been approved which corrected the income. (Appellant's Testimony, Ex 2(a)).
5. Appellant was laid off in April during Covid and could not afford the \$1,100 per month cost of COBRA from his Employer. (Appellant's Testimony, Ex 2(a)).
6. The Appellant testified he investigated obtaining Connectorcare and private insurance but was denied Connectorcare because his Spouse's income was being used to determine the cost of insurance. (Appellant's Testimony, Ex 2(a)).
  7. Appellant testified he was unemployed during the time he was being penalized, that his spouse was ill, and with the limited number of hours there is no way he could afford health insurance or a penalty at this time. (Appellant's Testimony, Ex 2(a)).
  8. Appellant investigated obtaining insurance through his spouse's employer's health insurance plan, but it was too expensive with his unemployment and his spouse's reduced earnings. (Appellant's Testimony, Ex 2(a)).
  9. The Appellant testified that Covid-19 has greatly affected [them], he has had no income since last July, which was only limited unemployment assistance, and have had sacrifices trying to keep food in the house, and that he could not afford to pay a fine. (Exhibit 2(a)).
  10. Appellant has been assessed a tax penalty for six (6) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
11. The Appellant had the following average monthly living expenses in 2020: Mortgage: \$1,600, Utilities: \$275(average), Car Insurance: \$160, Gas/Transportation: \$600, Food: \$1,500(due to a required special diet), Cable Internet: \$240, Cell Phone: \$ 165: totaling: \$4,540. (Appellant's Testimony).
12. According to Table 3 Appellant could have afforded \$863.09 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
13. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,730.00 for a family of two (2). (See Table 2 of Schedule HC 2020, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

The evidence provided by the Appellant established that the income for 2020, \$129,164.00 was more than 300% of the federal poverty level, which for 2020 was \$50,370.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$863.09 per month. According to Table 4, Appellant, age 40 and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased insurance for \$316.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he was laid off during Covid and could not afford COBRA. Appellant investigated obtaining insurance through his spouse’s employer’s health insurance plan, but it was too expensive with his unemployment and his spouse’s reduced earnings. The Appellant did not testify to the cost. (Appellant’s Testimony, Ex 2(a)). Thus, where the Appellant testified that he did not have access to affordable ESI under his Spouse’s plan but did not have information on the cost, I am unable to determine whether the Appellant had access to affordable Employer Sponsored Insurance (“ESI”).

Notwithstanding whether the Appellant had access affordable coverage through his Spouse’s ESI, he did have access through the individual market, and as such we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member,

sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant testified that he had the following average monthly living expenses in 2020: Mortgage: \$1,600, Utilities: \$275(average), Car Insurance: \$160, Gas/Transportation: \$600, Food: \$1,500(due to a required special diet), Cable Internet: \$240, Cell Phone: \$ 165: totaling: \$4,540. (Appellant's Testimony). The record was left open for the Appellant to send in documents to corroborate same, but no documents were submitted.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant did not testify to the cost of his spouse's ESI, he may have been able to obtain ESI through his Spouse's employer. Moreover, the Appellant did not testify to the amount of his spouse's income and whether was used for the essential monthly costs. Accordingly, the Appellant did not meet his burden that he did not have adequate income to afford the cost of purchasing private insurance for \$863.09 per month. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities.

However, to mitigate the harshness of full penalty, and where the Appellant testified that he was unemployed during the time he was being penalized, that his spouse was ill, and that he has a limited number of hours of employment and as such there is no way he could afford health insurance or a penalty at this time, the penalty is reduced.

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

## **PENALTY ASSESSED**

Number of Months Appealed:   6        Number of Months Assessed:   3  

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-1014

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 15, 2021  
**Decision Date:** January 17, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

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

Exhibit 1: Appeal Case Information from Schedule HC. (1 page).  
Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 6/17/2021. (2 PP).  
Exhibit 2(a): Appellant's Statement in Support of Appeal (1 PP).  
Exhibit 2(b): Appellant's Documentation in Support of Appeal (credit cards, student loan) (19 PP).  
Exhibit 3: Health Connector's Notice of Hearing dated 11/23/2021 (2 PP).

The record was left open until January 15, 2022, for the Appellant to submit:  
Documentation of cost of ESI insurance coverage through Employer.

Exhibit 4:

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 33 in 2020, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$36,556. (Exhibit 1).

3. The Appellant work hours and income were reduced compared to 2019 because of the pandemic. (Appellant's Testimony, Exhibit 2(a)).
4. The Appellant testified she was not able to afford the cost of employer health insurance ("ESI") in order to keep her financials in order. (Appellant's Testimony, Exhibits 2(a), (b)).
5. The Appellant investigated obtaining Connectorcare but was not able to afford the approximate \$200 per month premium. (Appellant's Testimony).
6. Appellant obtained Connectorcare in January 2021. (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2020: Rent and contributions: \$200, Car payment: \$400, Car Insurance: \$207, Credit Cards: \$500, Student Loans (\$5,000 annual/12=\$416 + Sallie Mae: \$211/mo., totaling: \$1,934. (Appellant's Testimony, Exhibits 2(a), (b)).
9. According to Table 3 Appellant could have afforded \$152.32 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$288.00 per month.
10. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and claimed Other: that [D]uring 2020 she felt her circumstances prevented her from buying other insurance that met the premiums. During the hearing, the Appellant also testified that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2020, \$36,556.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$152.32. per month. According to Table 4, Appellant, age 33 and living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$288 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that she was not able to afford the cost of employer health insurance (“ESI”)) insurance in order to keep her financials in order. The Appellant credibly testified that she could not afford ESI.

Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee’s contribution for an individual plan is 9.78 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the Appellant could not testify to the monthly cost for an individual plan through the her employer but did testify she could not afford same. Accordingly, I am unable to determine whether she 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). Notwithstanding same, where the Appellant did have access through a government-sponsored program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or



mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Rent and contributions: \$200, Car payment: \$400, Car Insurance: \$207, Credit Cards: \$500, Student Loans (\$5,000 annual/12=\$416 + Sallie Mae: \$211/mo., totaling: \$1,934. (Appellant's Testimony)

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. Given the Appellant's loss of and reduced earnings because of Covid, and her annual income of \$36,556, she did not have adequate income to afford the cost of purchasing private insurance for \$288 per month given her monthly expenses of \$1,963. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony). The mandate has not been lost on the Appellant as she obtained insurance in 2021.

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

## **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1015**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 10, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated June 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 3: Letter from Appellant in support of appeal.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 38 years old and resided in Plymouth County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$123,735 (Exhibit 2).
3. Appellant had access to and was enrolled in employer sponsored health insurance ("ESI") from January through July of 2020, paying approximately \$200 per month for his plan. (Exhibit 3; Appellants' Testimony).

4. Appellant submitted a Statement of Grounds for Appeal, dated June 15, 2021, and a letter in support of his appeal, claiming that he was unable to afford health insurance from August through December of 2020 as a result of being laid off from employment and purchasing a home. (Exhibit 3).
5. Appellant collected unemployment benefits from July of 2020 through September of 2021. (Appellant Testimony).
6. Appellant has not been able to find a job since his lay off in July of 2020, and he is currently unemployed and receiving neither a paycheck nor unemployment benefits. (Appellant Testimony).
7. Appellant is currently enrolled in a Health Connector plan. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

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

In support of his appeal, Appellant submitted a Statement of Grounds dated June 15, 2021, and a letter, claiming that he was unable to afford health insurance from August through December of 2020 as a result of being laid off from employment and purchasing a home, which doubled, at the same time as his layoff, the amount he was previously paying for housing. (Exhibit 3).

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

Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$123,735 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$123,735 was greater than 300% of the FPL, he was ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 38 and living in Plymouth County, \$298 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$123,735 could afford to pay \$825 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that he was enrolled in ESI from January through July of 2020, at a cost of approximately \$200 per month. (Exhibit 2; Appellant Testimony). Appellant was laid off in July of 2020 and lost his ESI at this time, which coincided with his purchase of a new home. (Appellant Testimony). Appellant collected unemployment benefits, including pandemic unemployment benefits, from July of 2020 through September of 2021. (Appellant Testimony). Appellant has not been able to find employment since then, believing his age and high earnings to be impediments, and he has depleted his savings paying his expenses. (Appellant Testimony).

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

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$4,079 per month: mortgage - \$2,773; property tax: \$310; homeowners' insurance - \$147; electric - \$166; gas - \$60; water - \$93; car insurance - \$46; cell - \$51; internet - \$33; food - \$400. (Appellant's Testimony). Despite gross earnings of \$4,271 per week prior to being laid off, Appellant's 2020 weekly unemployment benefits were capped at \$1,123 per week, which included pandemic unemployment benefits. After his lay off in July of 2020, Appellant was left with approximately \$100 per week after paying his essential expenses. (Exhibit 2). Given that private health insurance would have cost Appellant \$298 per month in 2020, I conclude that the cost of purchasing health insurance would

have caused Appellant to experience a serious deprivation of basic necessities, and that Appellant experience a financial hardship in 2020 as a result of his lay off and reduction in income, as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1016**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 10, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 2: Statement of Grounds for the Appeal dated June 15, 2021.
- Exhibit 3: Letter from Appellant in support of appeal dated June 15, 2021.
- Exhibit 4: Correspondence from City of Westfield dated April 5, 2021.
- Exhibit 5: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 61 years old and resided in Hampden County in 2020. (Exhibit 1).
2. Appellant and his spouse filed their 2020 Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income of \$43,114. (Exhibit 1).
3. In 2020, Appellant did not have health insurance and is appealing a 12-month penalty, while his spouse had Medicare coverage and had no penalty assessed for 2020. (Exhibit 1).

4. Appellant submitted a Statement of Grounds for Appeal dated June 15, 2021, claiming that in 2020 he received a foreclosure notice. (Exhibit 2).
5. In support of his appeal, Appellant submitted a letter dated June 15, 2021, supported by correspondence dated April 5, 2021 from the City of Westfield, claiming that property tax payments on his home were diverted by a family member for a number of years, resulting in a tax taking on the property, and because of his efforts trying to keep his property, Appellant was not able to afford health insurance in 2020. (Exhibits 3 and 4; Appellant Testimony).
6. Appellant does not currently have health insurance. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance in 2020, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty assessed against him for 2020. (Exhibit 1).

Appellant submitted a Statement of Grounds and a letter, both dated June 15, 2021, claiming that property tax payments on his home were diverted by a family member for a number of years resulting in a foreclosure notice on his property, and that the expense of saving his property made purchasing health insurance in 2020 unaffordable. (Exhibits 3 and 4; Appellant Testimony).

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

According to Schedule HC for 2020 Table 2, I find that Appellants' 2020 AGI of \$43,114 made Appellant eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$50,730 for a family of two). Because Appellants' 2020 AGI of \$43,114 was less than 300% of the FPL, Appellant was eligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 61 and living in Hampden County, \$387 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return as married filing jointly with no dependents, with an AGI of \$43,114, could afford to pay \$266 per month for an individual health insurance plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was greater than the amount Appellant could afford, I conclude that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

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

Appellant credibly testified that unbeknownst to him, a family member diverted property tax payments on his home for a number of years, which resulted in the City threatening to foreclosure on his property as a result of a tax taking due to non-payment of property taxes. (Exhibit 4). Appellant submitted correspondence from the City of Westfield ("The City") dated April 5, 2021, confirming that the City filed an Instrument of Taking on the property. (Exhibit 4). There was no mortgage on the property at the time of the tax taking filing. (Appellant Testimony). Appellant testified that this tax taking included 2020 property tax arrearages. (Appellant testimony). The City notified Appellant on April 5, 2021 that he had sixty days from the date of the letter to satisfy the tax lien by either listing the property for sale or securing a loan on the property. (Appellant Testimony). Appellant secured a mortgage on the property and paid off the tax lien in 2021. (Appellant Testimony). Appellant testified that as a result of having to take on this new mortgage payment, he was unable to afford the cost of health insurance in 2020. (Appellant Testimony).

Based on these circumstances, I find that Appellant has sufficiently demonstrated a financial hardship for 2020, such that he was not able to afford the cost of health insurance.



Accordingly, Appellant's appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against him 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 NOT be assessed a penalty for Tax Year 2020.

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

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

Hearing Officer

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1018**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 14, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated June 19, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 58 years old and resided in Norfolk County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$20,716 (Exhibit 2).
3. Appellant has been self-employed for approximately 20 years and has no employees. (Appellant Testimony).
4. Appellant did not have access to affordable employer-sponsored health insurance in 2020. (Appellant testimony).

5. Appellant submitted a Statement of Grounds for Appeal, dated June 19, 2021, claiming that health insurance is unaffordable for him. (Exhibit 1).
6. Appellant was out of work without income due to an injury for approximately 2 months in 2020. (Appellant Testimony).
7. Appellant does not currently have health insurance. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance in 2020, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated June 19, 2021, claiming that based on the level of his self-employment income, he was unable to afford health insurance in 2020. (Exhibit 2).

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

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 58 and living in Norfolk County, \$432 per month to purchase an individual plan on the private insurance market. Based on the

Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$20,716 could afford to pay \$50 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was greater than the amount Appellant could afford, I conclude that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$20,716 made him eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$20,716 was less than 300% of the FPL, he was eligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Appellant testified that he has been self-employed, without employees, for close to twenty years, and has not been able in these years to purchase or provide his own health insurance, i.e. employer-sponsored health insurance ("ESI") through his business. (Appellant Testimony). Appellant testified that in 2020 he was again not able to afford to purchase health insurance. (Exhibit 1; Appellant Testimony). Appellant's inability to afford health insurance in 2020 was compounded by him experiencing an injury which kept him out of work and without earnings for a number of months. (Appellant Testimony).

While neither affordable private health insurance nor ESI was available to Appellant in 2020, based on his income, he was eligible for subsidized care through the Health Connector. Because affordable subsidized care was available to Appellant in 2020, a determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$1,630 per month: property tax: \$500; electric - \$95; gas - \$120; car insurance - \$105; cell - \$50; internet - \$160; food - \$600. (Appellant's Testimony). Given that Appellant's gross monthly earnings in 2020 of \$1,726 left him with less than \$100 per month after expenses, I conclude that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities, and that Appellant experienced a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant's appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against him 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 NOT be assessed a penalty for Tax Year 2020.

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

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

Hearing Officer

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1021**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 21, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated June 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 36 years old and resided in Essex County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$62,383 (Exhibit 2).
3. Appellant had health insurance solely in the month of November, 2020. (Exhibit 2).
4. Appellant submitted a Statement of Grounds for Appeal, dated June 14, 2021, claiming that in 2020 the expense of purchasing health insurance would have caused him a serious deprivation of

food, shelter, clothing or other necessities, and that he was more than 30 days in arrears in mortgage payments, or received an eviction or foreclosure notice. (Exhibit 1).

5. Appellant's employer laid him off in March of 2020 due to the pandemic. (Appellant Testimony).
6. Appellant went to work for a different employer in or around September of 2020, and enrolled in employer sponsored health insurance ("ESI") beginning in November, 2020. (Exhibit 2; Appellant Testimony).
7. Shortly thereafter, Appellant separated from this employer, and lost health insurance again in December of 2020. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the "individual mandate", which requires that every adult resident of Massachusetts obtain insurance coverage "[s]o long as it is deemed affordable." Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 C.M.R. 6.08.

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

In support of his appeal, Appellant submitted a Statement of Grounds dated June 14, 2021, claiming that in 2020 the expense of purchasing health insurance would have caused him a serious deprivation of food, shelter, clothing or other necessities, and that he was more than 30 days in arrears in mortgage payments, or received an eviction or foreclosure notice. (Exhibit 1).

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

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

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 36 and living in Essex County, \$298 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$62,383, could afford to pay \$416 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant for certain months in 2020, as discussed below. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$62,383 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$62,383 was greater than 300% of the FPL, he was ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Appellant testified that his employer laid him off in March of 2020 due to the pandemic, and he began collecting unemployment benefits of approximately \$1,000 per week until returning to work in September. (Appellant Testimony). Appellant did not offer a credible reason for not having ESI or private health insurance in January and February of 2020 prior to this pandemic lay off. Accordingly, I find Appellant had access to affordable ESI or private health insurance in January and February of 2020. Given his unemployed status and resulting reduction in income from March through September of 2020, I conclude that during this time period Appellant did not have access to either ESI or affordable private insurance, and Appellant is entitled to a waiver of the individual mandate penalty for these months.

Appellant returned to work with a different employer in or around September of 2020, enrolling in employer sponsored health insurance ("ESI") with this employer beginning in November, 2020. (Exhibit 2; Appellant Testimony). Shortly thereafter, Appellant separated from this employer, and lost health insurance again by December of 2020. (Appellant Testimony). Given that in December Appellant had no access to ESI, no income and presumably no unemployment benefits coming in, I find that Appellant did not have access to ESI or affordable private insurance during that month. Accordingly, Appellant is entitled to a waiver of the individual mandate penalty for the month of December, 2020.

As discussed above, because Appellant had access to affordable ESI or private health insurance in January and February prior to his March 2020 lay off, a determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance during these two months. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused



a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$3,565 per month: mortgage - \$2,100; electric - \$50; gas - \$50; car insurance - \$270; cell - \$200; internet - \$145; food - \$700. (Appellant's Testimony). Appellant's gross monthly earnings and unemployment benefits in 2020 were \$5,199, income which significantly exceeds the cost of his essential expenses. Although he did not submit supporting documentation and did not claim this on his Statement of Ground for Appeal, Appellant testified that his utility bills were in arrears in 2020 for which he received shutoff notices. Despite the lack of supporting documentation, I will credit Appellant's testimony regarding these utility arrearages. Based on these 2020 utility arrearages, I find that the cost of purchasing health insurance in January and February of 2020 would have caused Appellant to experience a serious deprivation of basic necessities, and that Appellant experienced a financial hardship as defined by the regulation during these two months. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

**ADDENDUM**

Appellant is advised not to rely on a similar grant of leniency should he appeal the assessment of a penalty in any future tax year.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-825

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** November 18, 2021  
**Decision Date:** January 31, 2022

### AUTHORITY

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

### JURISDICTION

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

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

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) appeared at the hearing on November 18, 2021, which was held by telephone. They were authorized by their spouse (Appellant Spouse) to speak on the Appellant Spouse's behalf and to try to "fix things." (together, Appellants). (Primary Taxpayer's Testimony).

The hearing record consists of the Primary Taxpayer's testimony and the following documents, which were admitted into evidence without objection. In response to a post-hearing Open Record request, the Primary Taxpayer provided eighteen (18) pages of documents, which are included below as Exhibit 4. The Appellant Spouse did not provide any documents in response to a separate Open Record request directed to them.

Exhibit 1	First Hearing Notice dated October 22, 2020	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2020	1
Exhibit 3	Statement of Grounds for Appeal and Documents	10
Exhibit 4	Cover Letter and Benefits Documents	18

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

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Primary Taxpayer turned 31 years old in July 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with no dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 33 years old in June 2020. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Essex County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$93,364.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020 and each appeals their respective assessment. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$93,364.00, could afford to pay \$622.43 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 31, living in Essex County, could have purchased private market health insurance for \$576.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellants in 2020.
9. Employer-sponsored insurance was available to the Primary Taxpayer during 2020. (Primary Taxpayer's Testimony and Exhibit 4). No evidence was presented that employer-sponsored insurance was available to the Appellant Spouse during 2020. (Primary Taxpayer's Testimony and Exhibit 4).

10. The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$93,364.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).
11. The Primary Taxpayer was employed by a dialysis company during 2020. Their work hours were reduced for about five (5) months during 2020 because of the pandemic. (Primary Taxpayer's Testimony and Exhibit 4).
12. The Appellant Spouse was employed part-time as an electrician and part-time in another job during 2020. Appellant Spouse earned about \$45,000.00 that year from both jobs. (Appellant Spouse's Testimony).
13. The Appellants had their 2020 taxes prepared by a third-party tax company. (Primary Taxpayer's Testimony).
14. The Appellants were separated and in the process of getting a divorce during 2020. (Primary Taxpayer's Testimony).
15. The Primary Taxpayer enrolled in health insurance coverage for themselves only during 2020 and did not include their spouse because of their separation and impending divorce. (Primary Taxpayer's Testimony and Exhibit 4).
16. The Appellant Spouse came to the United States from a different country a few years ago. The Appellant Spouse thought they had been notified that they would not receive a penalty for not having health insurance during 2020. (Primary Taxpayer's Testimony, which I credit).
17. Appellants' 2020 monthly living expenses of \$2,130.00 included: Rent - \$1,400.00, Car insurance - \$120.00, Gas - \$60.00, Phone - \$200.00, Food - \$230.00, Student loans - \$120.00. (Exhibit 3 and Appellant Spouse's Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellants did not check any box on the Statement of Grounds for Appeal. The Primary Taxpayer testified that they had employer-sponsored insurance for themselves during 2020, provided post-hearing documentation of such insurance coverage and testified that the information from Schedule HC for 2020 showing that they did not have insurance was incorrect. (Primary Taxpayer's Testimony, which I credit, and Exhibit 4). A third party prepared the Appellants' 2020 tax returns. (Primary Taxpayer's Testimony).

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

To determine if the Appellants' twelve-month penalties 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 Taxpayers through employment, through private insurance, or through a government-sponsored program. If insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$93,364.00, could afford to pay \$622.43 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 31, living in Essex County, could have purchased private market health insurance for \$576.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellants in 2020.

Employer-sponsored insurance was available to the Primary Taxpayer during 2020, who enrolled in that coverage for themselves only that year given that they and their spouse were in the process of getting divorced. (Primary Taxpayer's Testimony and Exhibit 4). No evidence was presented that employer-sponsored insurance was available to the Appellant Spouse during 2020. (Primary Taxpayer's Testimony and Exhibit 4).

The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$93,364.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that the Primary Taxpayer had MCC-compliant health insurance during 2020 and that their Schedule HC had been completed incorrectly. Based on the totality of the circumstances and evidence contained in the administrative record, I further conclude that Appellant Spouse likely misunderstood the requirements of the individual mandate, which remain in effect, and would have experienced hardship if they had paid individually for health insurance during 2020. 956 CMR 6.08 (1) and (3).

For all these reasons, each Appellant’s twelve-month penalty assessment is waived entirely.

The Appellants should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellants should not assume that a similar determination will be made for subsequent tax years should either one again be assessed a tax penalty for failure to have health insurance that is MCC-compliant in Massachusetts, as the individual mandate requires. In the future, the Primary Taxpayer should review their Summary of Health Insurance Benefits to ensure that they have reported their coverage correctly as MCC-compliant on their Massachusetts Schedule HC. The Appellant Spouse must ensure that they have MCC-compliant insurance coverage for future years as well and report that coverage accurately on their Massachusetts Schedule HC.<sup>2</sup>

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

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<sup>2</sup>Both Appellants are encouraged to contact the Commonwealth Health Connector, Customer Service with any questions about coverage at either [www.mahealthconnector.or](http://www.mahealthconnector.or) or at 1-877-623-6765.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-891

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** December 10, 2021  
**Decision Date:** January 12, 2022

### AUTHORITY

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

### JURISDICTION

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

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

The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) appeared at the hearing on December 10, 2021, which was held by telephone, and was authorized by their spouse to speak on the Primary Taxpayer's behalf to the extent necessary. (Appellant Spouse's Testimony). The Appellant listed as the Primary Taxpayer on the Appeal Case Information from Schedule HC for 2020 (Primary Taxpayer) appeared briefly later in the hearing.

The hearing record consists of the testimony of the Appellant Spouse, brief testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection:

Exhibit 1	First Hearing Notice dated November 10, 2021	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2020	1
Exhibit 3	Statement of Grounds for Appeal and Supporting Letter	7

### FINDINGS OF FACT

The record shows, and I so find:

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



1. The Primary Taxpayer turned 61 years old in June 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with no dependents claimed. (Exhibit 3).
2. The Appellant Spouse turned 61 years old in December 2020. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Essex County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$34,800.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020 and each appeals their respective assessment. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$34,800.00, could afford to pay \$179.80 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 61, living in Essex County, could have purchased private market health insurance for \$864.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2020.
9. Employer-sponsored insurance was not available to either the Primary Taxpayer or the Appellant Spouse during 2020. (Appellant Spouse's Testimony).
10. The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$34,800.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).
11. The Primary Taxpayer was self-employed running a car service. At some point after the Covid-19 pandemic began in 2020, they had to shut down their business because of a lack of clients, and they began collecting unemployment insurance. The Primary Taxpayer is expecting that some of their clients will return in 2021. (Appellant Spouse's Testimony).

12. The Appellant Spouse also had been employed before the pandemic began but soon after was laid off and also began collecting unemployment insurance. (Appellant Spouse's Testimony).
13. In July 2020, Appellant Spouse found new employment but was laid off again in November 2020. (Exhibit 3)
14. The Appellants believed that because they were receiving unemployment insurance and eventually received additional stimulus payments during 2020, they would not qualify for government-subsidized insurance through the Health Connector. They did not contact the Connector to discuss their options.<sup>2</sup> (Exhibit 3 and Appellant Spouse's Testimony, which I find credible).
15. The Appellants were anxious about their situation and the uncertainty about ongoing health and financial issues. (Exhibit 3 and Appellant Spouse's Testimony).
16. In April 2020, the Appellants successfully contacted their mortgage company, which agreed to forbear on collection of their payments for some period of time. (Exhibit 3 and Appellant Spouse's Testimony).
17. Appellants' 2020 monthly living expenses of \$2,880.92 included: Mortgage - \$1,834.92, Heat - \$127.00, Gas - \$25.00, Electricity - \$43.00, Food - \$425.00, Water/sewer - \$72.00, Miscellaneous (clothing, paper goods) - \$100.00, Car insurance - \$80.00, Credit card debt (dental) - \$54.00, Credit Card (BOA) - \$120.00. Additionally, they add other total expenses of \$4,957.00, including Federal back taxes - \$457.00, MA taxes - \$100.00, used car replacement (from accident) - \$4,400.00). (Exhibit 3 and Appellant Spouse's Testimony).
18. In November 2021, the Appellant Spouse became employed in a new job working for a health care facility. That employer offers insurance after a 60-day probationary period. (Appellant Spouse's Testimony).

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<sup>2</sup> Appellants were advised that the Connector's Open Enrollment period extends through January 23, 2022 and were encouraged to contact the Connector at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> before the close of the Open Enrollment period if they do not have MCC-compliant health insurance from another source. Given that Appellants received unemployment benefits during 2020 and the American Rescue Plan's provision to exclude the first \$10,200.00 of unemployment income from taxable income, they are encouraged to determine if their 2020 tax return needs to be amended and, if so, to determine if that would affect their eligibility for insurance through the Health Connector and update their 2022 Connector application if relevant.

## ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal saying that the expense of purchasing health insurance would have caused a serious deprivation of food and other living expenses. (Exhibit 3 and Appellant Spouse’s Testimony).

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

To determine if the Appellants’ twelve-month penalties 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 Taxpayers through employment, through private insurance, or through a government-sponsored program. If insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$34,800.00, could afford to pay \$179.80 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 61, living in Essex County, could have purchased private market health insurance for \$864.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2020.

Employer-sponsored insurance was not available to either the Primary Taxpayer or the Appellant Spouse during 2020. (Appellant Spouse’s Testimony).

The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$34,800.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).

The Primary Taxpayer was self-employed running a car service. At some point after the Covid-19 pandemic began in 2020, they had to shut down their business because of a lack of clients, and they began collecting unemployment insurance. The Primary Taxpayer is expecting that some of their clients will return in 2021. (Appellant Spouse's Testimony).

The Appellant Spouse also had been employed before the pandemic began but soon after was laid off and also began collecting unemployment insurance. (Appellant Spouse's Testimony). In July 2020, Appellant Spouse found new employment but was laid off again in November 2020. (Exhibit 3).

The Appellants believed that because they were receiving unemployment insurance and eventually received additional stimulus payments during 2020, they would not qualify for government-subsidized insurance through the Health Connector. They did not contact the Connector to discuss their options. (Exhibit 3 and Appellant Spouse's Testimony).

The Appellants were anxious about their situation and the uncertainty about ongoing health and financial issues. (Exhibit 3 and Appellant Spouse's Testimony). In April 2020, the Appellants successfully contacted their mortgage company, which agreed to forbear on collection of their payments for some period of time. (Exhibit 3 and Appellant Spouse's Testimony).

Appellants' 2020 monthly living expenses of \$2,880.92 included: Mortgage - \$1,834.92, Heat - \$127.00, Gas - \$25.00, Electricity - \$43.00, Food - \$425.00, Water/sewer - \$72.00, Miscellaneous (clothing, paper goods) - \$100.00, Car insurance - \$80.00, Credit card debt (dental) - \$54.00, Credit Card (BOA) - \$120.00. Additionally, they add other total expenses of \$4,957.00, including Federal back taxes - \$457.00, MA taxes - \$100.00, used car replacement (from accident) - \$4,400.00. (Exhibit 3 and Appellant Spouse's Testimony). Appellants annual living expenses during 2020 of \$34,580.00 was essentially equivalent to their AGI of \$34,800.00. Additionally, they had debt from other expenses totaling about \$5,000.00 in 2020.

In November 2021, the Appellant Spouse became employed in another job working for a health care facility. That employer offers insurance after a 60-day probationary period. (Appellant Spouse's Testimony).<sup>3</sup>

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that Appellants have demonstrated that they would have experienced hardship if they had paid for health insurance during 2020. 956 CMR 6.08 (1) and (3). Their AGI during 2020 was insufficient to cover their monthly living expenses and outstanding debt, without the additional expense of health insurance. (Appellant Spouse's Testimony, which I credit). Appellants did not understand the Connector marketplace and the possibility that they may have qualified for subsidized insurance during 2020.

For all these reasons, each Appellant's twelve-month penalty is waived entirely.

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<sup>3</sup> As noted earlier, Appellant Spouse was advised that the Connector's Open Enrollment period extends through January 23, 2022 and was encouraged to contact the Connector if it appeared that the new job and health insurance coverage might not work out.

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

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-900

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

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

**Hearing Date:** December 14, 2021

**Decision Date:** December 21, 2021

### **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 14, 2021. 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 (w/ attachment) (8 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 39 years old at the end of 2020.
2. During 2020, Appellant lived in Hampden County.
3. Appellant filed his 2020 Massachusetts taxes as married, filing jointly, with two dependents. Exhibit 2. The dependents were his and his wife's two minor children.
4. Appellant and his wife reported on their Massachusetts tax return and Appellant confirmed at the hearing that they had adjusted gross income in 2020 of \$138,357. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he and his wife filed with their 2020 state income taxes that he did not have health insurance meeting minimum creditable coverage standards at any point in 2020. The couple reported that the wife was covered for 11 months out of the year. The wife was not assessed an individual mandate penalty. Exhibit 2.
6. During 2020, Appellant worked at a retail job that did not provide him with health insurance.
7. Appellant applied for insurance through the Health Connector. However, he was informed that he was not able to obtain insurance through the Health Connector because he did not have legal permanent resident status in the United States. Exhibit 3.
8. During 2020, Appellant was applying for a green card. His wife was a citizen.
9. Appellant obtained a green card during 2021. Shortly afterward, he applied for and received health insurance through the Health Connector. He was covered at the time of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, Appellant’s wife was covered for 11 months of the year in 2020. Accordingly, she has not been assessed a penalty. However, Appellant was not covered and so he was subject to the penalty.

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

First, Appellant worked at a job that did not provide him with insurance. Thus, he could not have obtained employment-based insurance.

Further, Appellant could not have obtained government-subsidized insurance during 2020 for two reasons. First, the household’s annual income of \$138,357 was above \$77,250, which is 300 percent of the federal poverty limit for a household of four persons like Appellant’s. (I obtain the figure of \$77,250 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance in Massachusetts. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Moreover, in order to be eligible for Connector Care, a person must be eligible to receive premium tax credits offered by the federal government under the Affordable Care Act (ACA). Id. Under the ACA, an individual is not eligible for premium tax credits if that individual is neither a citizen nor a legal permanent resident of the United States. 26 U.S.C. § 36B(e). In 2020, Appellant did not qualify under that criterion because he had not yet obtained a green card.

Finally, Appellant was unable to purchase health insurance on the non-group market through the Health Connector's health insurance exchange because of his lack of permanent residency status in 2020. The Health Connector is a health insurance exchange that offers non-group insurance policies to individuals for purchase. Under the ACA, an individual is not permitted to obtain insurance through a health insurance exchange like the Health Connector if that person is not a citizen or a legal permanent resident of the United States. See 42 U.S.C. § 13031(f)(3). Appellant did not have either status in 2020. Accordingly, when Appellant applied to purchase insurance through the Health Connector's insurance exchange, he was notified that he was unable to do so. See Exhibit 3. Accordingly, Appellant was effectively unable to purchase insurance on the non-group market.

Because Appellant effectively did not have an option to obtain affordable insurance during 2020, he should not be subject to the individual mandate penalty. Accordingly, I will waive the penalty against Appellant in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-920

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

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

**Hearing Date:** December 14, 2021

**Decision Date:** December 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants were a married couple who shall be referred to in this decision as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on December 14, 2021. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds with attachment (6 pages)

### **FINDINGS OF FACT**

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

1. Wife was assessed a penalty for not having health insurance in 2020. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with no dependents. Exhibit 2.
3. Appellants married on June 30, 2020.
4. During 2020, Appellants lived in Middlesex County. Exhibit 2.
5. Husband was 38 at the end of 2020. Wife was 28 at the end of 2020. Exhibit 2.

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

6. Appellants reported on their Massachusetts tax return and Husband confirmed at the hearing that they had adjusted gross income in 2020 of \$135,734. See Exhibit 2. Of that amount, Wife's earnings were \$23,882 and Husband's income made up the balance.
7. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that Wife did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.
8. However, Husband testified credibly and provided documentary proof, consisting of a 1099-HC form from an insurer, that Wife was in fact covered from June through December 2020. See Exhibit 3 (1099-HC from Cigna).
9. Husband was insured for the entire year. Exhibit 2.
10. Husband worked in 2020 and still works for an employer that offers health insurance. He has been enrolled in that insurance throughout 2020 and 2021. He was insured at the time of the hearing.
11. However, in 2020, Wife worked as an hourly employee at a job that did not offer her insurance.
12. In 2020, Wife did not have legal permanent resident status in the United States.
13. When the couple married in June 2020, Wife became eligible to be covered through Husband's employment-based insurance. She enrolled at that time and became insured effective July 1. She was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

In this case Wife was assessed the individual mandate penalty because she was without insurance in 2020. 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.

A penalty for 12 months without insurance was assessed against Wife because she reported on the Schedule HC that she had not been insured at all in 2020. However, I credit Husband's testimony, which was corroborated by the 1099-HC from Cigna, that Wife was insured from July through December of the year. According to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector's "Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00", which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Wife lacked insurance for only six months. Therefore, she was entitled to a three-month gap without penalty, and so she should have been assessed a penalty for only three months.

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

During the part of 2020 when she was uninsured, Wife was not eligible for employment-based insurance. Her own job did not offer her insurance as a benefit. She was not eligible to be covered under Husband's employer-based plan until after they were married in June.

Further, Wife would not have been eligible for Connector Care, which is government-subsidized insurance. In order to obtain Connector Care, an individual must be eligible for premium tax credits available under the Affordable Care Act (ACA). See 956 CMR 12.04 (Connector Care eligibility requirements.) Under the ACA, an individual is not eligible for premium tax credits if that individual is neither a citizen nor a legal permanent resident of the United States. 26 U.S.C. § 36B(e). In 2020, Wife did not qualify under that criterion because she had not yet obtained a green card. Accordingly, she was not eligible for government-subsidized insurance in 2020.

Finally, Wife could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Although Appellants reported joint income of \$135,734 on their tax return, most of that represented the Husband's earnings. Wife alone made only \$23,882 in 2020. Before her marriage, during the period when she was uninsured, that lower amount was her income. Under state affordability standards, a person making \$23,882 for a household of one person was deemed able to afford 2.9 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Wife's case, that amounts to \$692 annually or \$57 a month. During 2020, a person like Wife who lived in Middlesex County and was 28 years of age would have had to pay \$269 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Wife.

Because Wife could not have obtained affordable insurance in 2020, she was not subject to the individual mandate penalty. Accordingly, I waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1042

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

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

**Hearing Date:** January 6, 2022

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 6, 2022. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Statement of Grounds (w/ attachment) (17 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 54 years old at the end of 2020.
2. During 2020, Appellant lived in Worcester County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$33,699. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable coverage standards from January through September, but that he was insured from October through December.
6. Appellant was laid off from his job at the end of 2019 because his employer relocated out of state.
7. Appellant was unemployed and collecting unemployment insurance for much of 2020. His income was essentially reduced by half.
8. In October, he began working for a temporary agency. He believes that he obtained health insurance through that temporary employment.
9. During 2020, Appellant struggled to meet his expenses.
10. He fell behind in his rent and in December 2020, he received a notice to quit his rental apartment because of unpaid rent. See Exhibit 3.
11. Additionally, Appellant was threatened with having his electricity cut off because of non-payment of utility bills in 2020. See Exhibit 3.
12. Appellant stated that at some point in 2020, he applied for health insurance through MassHealth, but he was told that his income was too high to qualify him for coverage.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00”, which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for only nine months. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only six months.

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

First, Appellant was unemployed during the period in 2020 when he did not have insurance. Thus, he could not have obtained employment-based insurance.

Appellant testified that he was unable to obtain government-subsidized insurance during 2020. It is not clear why this occurred. Appellant stated that he was told, when he applied, that his income was too high. However, his annual household income of \$33,699 is below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet other eligibility requirements of citizenship or legal permanent residence and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I find that Appellant did meet those criteria based on his testimony. However, it is possible that, in applying for insurance, Appellant overstated his income or predicted that his 2020 income would be higher than it actually was. In any event, he did not obtain Connector Care in 2020.

Finally, Appellant was unable to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who was making \$33,699 for a household of one person was deemed able to afford 5 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$1,684 annually or \$140 a month. During 2020, a person like Appellant who lived in Worcester County and was 54 years of age would have had to pay \$420 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

Because Appellant could have obtained affordable government-subsidized insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Appellant testified credibly and offered corroborating documentary evidence that he received a notice to quit his rental apartment in 2020. Receipt of an eviction notice is a ground for waiving the penalty under the regulations. Id. § 6.08(1)(a). Additionally, Appellant testified credibly and produced corroborating evidence that he received a shut-off notice for electricity in 2020. Receipt of a shut-off notice for an essential utility, such as electricity, is considered grounds for a hardship waiver as well. Id. § 6.08(1)(b). Because Appellant has stated grounds that meet the hardship criteria under the governing regulations, I will waive the penalty assessed against Appellant in its entirety.

**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



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1043

**Appeal Decision** The appeal is denied. The tax penalty is waived in part.

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

**Hearing Date:** January 6, 2022

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants were a married couple who shall be referred to in this decision as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on January 8, 2022. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds with attachment (6 pages)

### **FINDINGS OF FACT**

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

1. Appellants were assessed a penalty because Husband did not have health insurance in 2020. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with no dependents. Exhibit 2.
3. During 2020, Appellants lived in Norfolk County. Exhibit 2.
4. Husband was 29 at the end of 2020. Wife was 32 at the end of 2020. Exhibit 2.
5. Appellants reported on their Massachusetts tax return and Husband confirmed at the hearing that they had adjusted gross income in 2020 of \$130,229. See Exhibit 2.

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

6. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes and Husband confirmed at the hearing that Husband did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Wife had insurance meeting MCC standards for the entire year.
7. During 2022, Wife worked for an employer that offered health insurance. She was enrolled in that insurance throughout 2020. Based on pay stubs that Appellants submitted, the cost of that insurance was about \$320 a month pre-tax. Exhibit 3.
8. Wife's employer-based insurance would have covered Husband. However, Husband stated that the cost of adding him to the coverage would have been about \$400 a month, which they considered to be too high.
9. Based on the pay stubs Appellants submitted, it appears that in 2019, Appellants were paying \$400 a month for health insurance, but that amount was reduced to approximately \$320 a month. Exhibit 3. This reduction is the result of a decision to drop Husband from coverage under the plan, thus achieving a savings of \$400 a month.
10. Husband started a new job early in 2020, working through a staffing company. The staffing company did not offer him insurance. He hoped to be hired as a permanent employee, but that never occurred.
11. In November 2020, he attempted to obtain insurance and contacted an organization that he thought was the Massachusetts Health Connector. Unfortunately, the organization he contacted was not the Health Connector. He testified that he went to a website that he found after googling "health connector" and then provided his telephone number. Shortly afterward he was contacted by a sales agent, who sold him a policy. The Massachusetts Health Connector would not have collected a phone number or made an outgoing sales call. Instead, persons who go to the Health Connector's website for insurance are instructed to open a secure, personal account, with a password, and then to provide information required to determine eligibility and the applicable rate.
12. That organization sold him a policy that cost \$300 a month, but that did not offer him adequate coverage. He cancelled that policy after a short time.
13. In October 2021, Appellants separated and Husband moved out of state.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

In this case Appellants were assessed the individual mandate penalty because Husband was without insurance in 2020. G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

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

Husband worked at a temporary job through a staffing agency and was not offered insurance through that job. However, he was eligible to receive insurance through Wife's employer. He stated that insurance would have cost an additional \$400 a month. Wife was already paying \$300 a month for her own coverage. The additional \$400 a month would have been affordable for Appellants under state standards set by the Health Connector Board pursuant to G.L. c. 111M. Under those standards, a household of two persons like Appellants' with an annual income of \$130,229 is deemed able to afford 8 percent of income for health insurance. (I obtain this percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$10,418 annually or \$868 a month. As stated, Wife was paying \$300 a month (pre-tax) for her health insurance through work. The additional cost of \$400 a month (also pre-tax) would therefore have brought the total cost of insurance for the couple to \$700 a month, which was affordable.

Further, Husband could have afforded unsubsidized insurance purchased on the non-group market under state affordability standards. As stated above, Appellants are deemed able to afford \$868 a month for health insurance. During 2020, a person like Husband who lived in Norfolk County and was 29 years of age could have obtained insurance for \$269 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount, even when added to the \$300 a month that Wife was paying for her insurance, would have been affordable. Husband claimed that he sought to buy insurance during the year, but wound up paying \$300 a month for insurance that did not cover basic services. It is not clear where he purchased this product, but it appears not to have been insurance offered by a licensed insurer, such as he might have purchased if he had applied through the Massachusetts Health Connector.

Finally, although it is not necessary for my decision, I note that Husband would not have been eligible for government-subsidized insurance. Appellants' joint income of \$130,229 is above \$50,730, which is 300 percent of the federal poverty level. (I obtain that figure from Table 2 to the instructions for the 2020 Schedule HC.) Individuals with income above 300 percent of the federal poverty level are not eligible for Connector Care, which is government-subsidized insurance in Massachusetts. See 956 CMR § 12.04 (Connector Care eligibility requirements.)

Because Husband could have obtained affordable health insurance either through Wife's employer or by purchasing it on the non-group market, I must determine whether Appellants have stated a hardship sufficient to waive the penalty under the Health Connector's regulations. 956 CMR § 6.08. I conclude that they have not. They did not establish that they experienced any of the listed hardships. They claimed on the Statement of Grounds that they submitted in support of their appeal that they incurred "a fire, flood, natural disaster, or other natural or human-caused event causing substantial household and/or personal damage...." Exhibit 3. However, the evidence did not support the claim. They claim that they were adversely impacted by the coronavirus pandemic because they both contracted the illness during 2020. However, they made the decision not to cover Husband under the Wife's

employment policy at the start of 2020, before the coronavirus pandemic began. Further, despite the fact that they both were sick at some point during the year, they both worked throughout the year. Wife stated in her written statement supporting the appeal that “[Husband] and I worked full-time through the entire pandemic year.” Exhibit 3. Their annual income was relatively high, despite any short-term periods when they weren’t working. Further, it is not convincing to argue that an illness experienced during the year is an excuse for not obtaining health insurance at the start of the year.

Despite the foregoing, I acknowledge that, based on Husband’s testimony, Appellants separated in late 2021, after the period under consideration here, and Husband has moved out-of-state. As a result, they are likely experiencing some financial disruption. Accordingly, I will exercise my discretion to reduce the penalty assessed against them from 12 months to six months.

**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 2020.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1046

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

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

**Hearing Date:** January 6, 2022

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 8, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds with attachment (36 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 51 at the end of 2020.
2. Appellant filed his 2020 Massachusetts taxes as single with one dependent. Exhibit 2. The dependent was his woman friend who lived with him and whom he supported.
3. During 2020, Appellant lived in Norfolk County. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$34,607. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. During 2020, Appellant worked at a retail job at which he was paid an hourly wage of \$12.50. His hours were irregular and less than full-time.
7. His employer offered him insurance, but the cost would have been \$55 a week. He considered that too expensive and so did not take it.
8. Appellant applied for health insurance through the Massachusetts Health Connector, but was rejected because he stated in his application that he had affordable health insurance offered through an employer.
9. Appellant was supporting his girlfriend, paying the entire rent on the room that they rented. He also was making car payments of \$462 a month.
10. Appellant frequently was required to obtain food at a food bank because he did not have enough money to purchase it in the grocery store.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant was offered insurance through his employment. That insurance would have cost him \$55 a week or \$220 a month. This amount would not have been affordable for him under state standards set by the Health Connector Board pursuant to G.L. c. 111M. Under those standards, an individual like Appellant with an annual income of \$34,607 is deemed able to afford 5 percent of income for health insurance. (I obtain this percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$1,730 annually or \$144 a month. Thus, insurance costing \$220 a month would therefore not have been affordable.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards. As stated above, Appellant is deemed able to afford \$144 a month for health insurance. During 2020, a person like Appellant who lived in Norfolk County and was 51 years

of age would have had to pay \$420 a month for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount, even when added to the \$300 a month that Wife was paying for her insurance, would have been affordable.

Finally, Appellant was unable to obtain government-subsidized insurance. Appellant's income of \$34,607 is below \$37,470, which is 300 percent of the federal poverty level. (I obtain that figure from Table 2 to the instructions for the 2020 Schedule HC.) Individuals with income below 300 percent of the federal poverty level are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they are also eligible to receive Advance Premium Tax Credits (APTCs) under the federal Affordable Care Act (ACA). See 956 CMR 12.04 (Connector Care eligibility requirements.) Under the ACA, an individual is not eligible to receive APTCs if the individual is eligible to receive coverage from an employer that costs less than 9.5 percent of the individual's income. 26 U.S.C. § 36B(c)(2)(C)(i)(II). Appellant was denied Connector Care coverage because it was determined that he had employer-sponsored insurance that was affordable under federal standards.

Because Appellant could not have obtained affordable health insurance through any source, he is not subject to the individual mandate penalty. Therefore, I am not required to determine whether he has stated a hardship sufficient to waive the penalty under the Health Connector's regulations. 956 CMR § 6.08. Instead, I will waive the penalty assessed against him in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1065

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** January 12, 2022  
**Decision Date:** February 8, 2022

### AUTHORITY

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

### JURISDICTION

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

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

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) appeared at the hearing on January 12, 2022, which was held by telephone, and was authorized by their spouse to speak on the Appellant Spouse's behalf. (Primary Taxpayer's Testimony). The Appellant Spouse did not appear at the hearing.

The hearing record consists of the testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection:

Exhibit 1	Hearing Notice dated December 10, 2021	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2020	1
Exhibit 3	Statement of Grounds for Appeal and Mortgage and HSA Insurance documents	16

### FINDINGS OF FACT

The record shows, and I so find:

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



1. The Primary Taxpayer turned 53 years old in June 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with one dependent claimed. (Exhibit 2).
2. The Appellant Spouse turned 51 years old in December 2020. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Middlesex County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$51,543.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020, and each appeals their respective assessment. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with one dependent claimed, with an annual adjusted gross income of \$51,543.00, could afford to pay \$210.47 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 53, living in Middlesex County, could have purchased private market health insurance for \$999.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2020.
9. Employer-sponsored insurance was available to the Primary Taxpayer only from January through March 2020, when they left work because of the pandemic, concerns about health safety and a sick relative living outside the country. Employer-sponsored insurance was not available to the Appellant Spouse during 2020. (Primary Taxpayer's Testimony).
10. The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$51,543.00 was less than the Federal poverty level of \$63,990.00 for a family of three. (Schedule HC for 2020).
11. The Primary Taxpayer had health insurance coverage through their employer, a medical school, from January through March 2020, when they left their job working as a researcher based on health safety concerns presented by the pandemic and a need to travel outside the

country for three to six months to attend to medical needs of their ill mother. (Primary Taxpayer's Testimony, which I credit).

12. The Appellant Spouse and their daughter remained living in Massachusetts during the Primary Spouse's absence. The Appellant Spouse worked as a real estate agent during 2020 but their income was reduced by half that year because of the pandemic. (Primary Taxpayer's Testimony, which I credit).
13. The Appellants' combined income during 2020 was reduced by approximately half because of the pandemic and illness of the Primary Taxpayer's mother. (Primary Taxpayer's Testimony, which I credit).
14. Given their uncertain financial situation, the Appellants believed they could only afford to purchase health insurance for their twelve-year-old daughter, which they did. They did not believe they could afford to purchase health insurance for themselves. Further, the primary taxpayer was living out of the country from approximately April through October 2020. (Primary Taxpayer's Testimony).
15. Appellants did not understand how the Health Connector marketplace works or that they may have qualified for ConnectorCare insurance coverage. (Primary Taxpayer's Testimony, which I credit).
16. Appellants' 2020 monthly living expenses of \$4,922.00 included: Mortgage - \$2,957.00, Condo Assoc. Fee - \$475.00, Heat - \$175.00, Gas - \$150.00, Electricity - \$100.00, Food - \$425.00, Car insurance - \$120.00, Phone - \$50.00, Wifi - \$45.00, Food - \$425.00. Additionally, the Primary Taxpayer had expenses of about \$2,000.00 to travel outside the country to attend to their ill mother and monthly expenses of about \$200.00 for health insurance coverage for their child. (Primary Taxpayer's Testimony).
17. The Appellants and their child currently have health insurance coverage given that the Primary Taxpayer is re-employed and the Appellant Spouse's self-employment income has increased. (Primary Taxpayer's Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

To determine if the Appellants' twelve-month penalties 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 Taxpayers through employment, through private insurance, or through a government-sponsored program. If insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with one dependent claimed, with an annual adjusted gross income of \$51,543.00, could afford to pay \$210.47 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 53, living in Middlesex County, could have purchased private market health insurance for \$999.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2020.

Employer-sponsored insurance was available to the Primary Taxpayer only from January through March 2020, when they left work because of the pandemic, concerns about health safety and a sick relative living outside the country. Employer-sponsored insurance was not available to the Appellant Spouse during 2020. (Primary Taxpayer's Testimony).

The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$51,543.00 was less than the Federal poverty level of \$63,990.00.00 for a family of three. (Schedule HC for 2020). However, Appellants did not understand how the Connector marketplace works. (Primary Taxpayer's Testimony, which I credit).

The Primary Taxpayer had health insurance coverage through their employer, a medical school, from January through March 2020, when they left their job working as a researcher based on health safety concerns presented by the pandemic and a need to travel outside the country for three to six months to attend to medical needs of their ill mother. (Primary Taxpayer's Testimony, which I credit). The Appellant Spouse and their daughter remained living in Massachusetts during the Primary Spouse's absence. (Primary Taxpayer's Testimony).

The Appellant Spouse worked as a real estate agent during 2020 but their income was reduced by half that year because of the pandemic. (Primary Taxpayer's Testimony, which I credit).

The Appellants' combined income during 2020 was reduced by approximately half because of the pandemic and illness of the Primary Taxpayer's mother. (Primary Taxpayer's Testimony, which I credit). Given their uncertain financial situation, the Appellants believed they could only afford to purchase health insurance for their twelve-year-old daughter, which they did. They did not believe they could afford to purchase health insurance for themselves. Further, the primary taxpayer was living out of the country from approximately April through October 2020. (Primary Taxpayer's Testimony). Appellants did not understand how the Health Connector marketplace works or that they may have qualified for ConnectorCare insurance coverage. (Primary Taxpayer's Testimony, which I credit).

Appellants' 2020 monthly living expenses of \$4,922.00 included: Mortgage - \$2,957.00, Condo Assoc. Fee - \$475.00, Heat - \$175.00, Gas - \$150.00, Electricity - \$100.00, Food - \$425.00, Car insurance - \$120.00, Phone - \$50.00, Wifi - \$45.00, Food - \$425.00. Additionally, the Primary Taxpayer had expenses of about \$2,000.00 to travel outside the country to attend to their ill mother and monthly expenses of about \$200.00 for health insurance coverage for their child. (Primary Taxpayer's Testimony).

The Appellants and their child currently have health insurance coverage given that the Primary Taxpayer is re-employed and the Appellant Spouse's self-employment income has increased. (Primary Taxpayer's Testimony).

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that Appellants have demonstrated that they would have experienced hardship if they had paid for health insurance during 2020. 956 CMR 6.08 (1) and (3). Their annual living expenses during 2020 totaled more than \$59,000.00, excluding additional expenses of approximately \$2,000.00 for necessary travel outside the country to attend to a sick relative and \$2,400.00 to pay for their daughter's health insurance coverage. Thus, their living expenses for 2020 exceeded the amount of their 2020 AGI, which was \$51,543.00. Appellants did not understand the Connector marketplace and the possibility that they may have qualified for subsidized insurance during 2020. Further, Appellants currently have health insurance coverage.

For all these reasons, each Appellant's twelve-month penalty is waived entirely.

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

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1098

**Appeal Decision** The appeal is allowed. The tax penalty is waived in full.

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

**Hearing Date:** January 25, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants were a married couple who shall be referred to in this decision as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on January 25, 2022. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Request to Vacate Dismissal (1 page)

### **FINDINGS OF FACT**

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

1. During 2020, Appellants lived in Middlesex County. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with one dependent. Exhibit 2.
3. Husband was 40 at the end of 2020. Wife was 31 at the end of 2020. Exhibit 2.
4. Appellants reported on their Massachusetts tax return and Husband confirmed at the hearing that they had adjusted gross income in 2020 of \$46,238. See Exhibit 2.

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

5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes and Husband confirmed at the hearing that neither of them had health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. Husband lost his job in early 2020 as a result of the Covid pandemic. Before he lost the job, he worked part-time and was not offered insurance through that part-time employment. After losing his job, he was unemployed for the remainder of 2020.
7. Wife worked at a part-time job that did not offer her health insurance.
8. In previous years, Appellants did not have health insurance. They were not subject to a penalty because their income was below 150 percent of the federal poverty limit (FPL). Individuals whose household income is below 150 percent of the FPL are not subject to the individual mandate tax penalty.
9. In 2020, Husband received unemployment compensation, with enhanced benefits that were paid under federal and state programs to assist with the recovery from the Covid pandemic. As a result of these enhanced benefits, Appellants' household income for 2020 exceed 150 percent of the FPL and they were subject to the individual mandate penalty for the first time.
10. Appellants did not apply for insurance through the Massachusetts Health Connector in 2020 because they were unaware that they could be eligible.
11. Husband is a citizen. Wife has a green card.
12. Appellants applied for health insurance through the Health Connector at some point in 2021 and were determined eligible. They were insured by the end of the year and at the time of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

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

During 2020, Husband either worked at a part-time job that did not offer him insurance or was unemployed. Wife worked at a part-time job that did not offer her insurance. As a consequence, neither of them had access to employment-based insurance.

Further, Appellants would not have been able to afford unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector Board pursuant to G.L. c. 111M. Under those standards, a household of three persons like Appellants' with an annual income of \$46,283 is deemed able to afford 4.9 percent of income for health insurance. (I obtain this percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$2,265 annually or \$188 a month. In 2020, a household like Appellants in Middlesex County in which the oldest member was 40 years old would have had to pay \$793 a month in premiums for family coverage. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC.) Thus coverage would not have been affordable to them under state standards.

However, Appellants would have eligible for affordable government-subsidized insurance. Appellants' household income of \$46,238 is below \$63,990, which is 300 percent of the federal poverty level for a household of three. (I obtain that figure from Table 2 to the instructions for the 2020 Schedule HC.) Individuals with income below 300 percent of the federal poverty level are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet the other eligibility criteria, which include lack of access to affordable employer-sponsored insurance and citizenship or legal permanent residence in the United States. I conclude that Appellants met these other criteria, based on Husband's testimony and on the fact that Appellants were determined eligible when they applied in 2021. See 956 CMR § 12.04 (Connector Care eligibility requirements.) However, Appellants did not apply for Connector Care in 2020.

Because Appellants could have obtained affordable health insurance but didn't, I must determine whether they have stated a hardship sufficient to waive the penalty under the Health Connector's regulations. 956 CMR § 6.08. I conclude that they have. Appellants' income situation during 2020 was unpredictable because Husband was unemployed and Wife worked only part-time. Given that fact, Appellants were understandably reluctant to take on an additional expense. Appellants were unaware that they would be subject to the individual mandate tax penalty because in previous years, their income had been so low that they were below the threshold at which the penalty applied. Further, Appellants were unaware that they could have obtained affordable insurance through the Connector Care program, until they applied in 2021 and got insurance. In light of all these facts, I will exercise my discretion to 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 20-1099

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

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

**Hearing Date:** January 25, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 25, 2022. Appellant testified with the assistance of an interpreter. 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: Request to vacate dismissal (2 pages)

### **FINDINGS OF FACT**

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

1. During 2020, Appellant lived in Essex County. Exhibit 2.
2. Appellant filed her 2020 Massachusetts taxes as head of household with one dependent. Exhibit 2.
3. Appellant was 32 at the end of 2020. Exhibit 2.
4. Appellants reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2020 of \$34,920. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. Appellant worked at a job through an employment agency, which did not provide her with health insurance.
7. Appellant believed that she did not qualify for MassHealth, which is the state's Medicaid program. As a consequence, she did not apply for health insurance through the Health Connector.
8. Appellant had monthly expenses that were difficult for her to meet. These included rent of \$1,250, car loan payments of \$230 a month, and car insurance payments of \$230 a month. She had trouble finding money to pay for groceries.
9. Appellant was a citizen.
10. Appellant applied for insurance through the Health Connector at some point in 2021 when she sought medical treatment. She was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

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

During 2020, Appellant worked at a job that did not offer her health insurance. As a result, she did not have access to employment-based insurance.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant making \$34,920 for a household of two persons was deemed able to afford 6.2 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$1,606 annually or \$133 a month. During 2020, a person like Appellant who lived in Essex County and was 32 years of age would have had to pay \$288 a month for health insurance. (I obtain the premium figure

from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for her.

However, Appellant would have been eligible for Connector Care, which is government-subsidized insurance. Her annual household income of \$34,920 is below \$50,730, which is 300 percent of the FPL for a household of two persons like Appellant's. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet those other criteria based on her testimony and on the fact that she was determined eligible in 2021 when she applied.

Because Appellant could have obtained affordable government-subsidized insurance, but didn't, I must determine whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant had limited income during 2020 and her expenses were considerable. She had very little money to spare. She did not apply for the Health Connector because she did not think she was eligible based on the fact that she had earlier been determined ineligible for MassHealth. (MassHealth, which is the state's Medicaid program, has different eligibility requirements than the Health Connector, including an upper income threshold that is usually 133% of the FPL.) When Appellant did apply through the Health Connector, she was determined eligible and was insured as of the date of the hearing. Based on all these facts, I will exercise my discretion to waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1101

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

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

**Hearing Date:** January 25, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 25, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (8 pages)

### **FINDINGS OF FACT**

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

1. During 2020, Appellant lived in Suffolk County. Exhibit 2.
2. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.
3. Appellant was 49 at the end of 2020. Exhibit 2.
4. Appellants reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$24,813. See Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.

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

6. At the start of 2020, Appellant worked at a job that did not provide him with health insurance.
7. He lost the job in March because of the Covid pandemic.
8. Appellant did not know that he could qualify for Connector Care.
9. After Appellant learned in 2021 that he was being assessed a penalty for not having insurance in 2020, he investigated purchasing insurance and learned about obtaining insurance through the Health Connector. He applied on-line and obtained insurance effective June 2021. He was insured at the time of the hearing.

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

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

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

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

During 2020, Appellant worked at a job that did not offer health insurance. As a result, he did not have access to employment-based insurance.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. . Under those standards, a person like Appellant making \$24,813 for a household of one person was deemed able to afford only 2.9 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant’s case, that amounts to \$713 annually or \$59 a month. During 2020, a person like Appellant who lived in Suffolk County and was 49 years of age would have had to pay \$316 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for him.

However, Appellant would have been eligible for Connector Care, which is government-subsidized insurance. His annual household income of \$24,813 is below \$37,470, which is 300 percent of the FPL for a household of one person like Appellant’s. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United

States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet those other criteria based on his testimony and on the fact that he was determined eligible in 2021 when he applied.

Because Appellant could have obtained affordable government-subsidized insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant had limited income during 2020. He had very little money to spare. He did not apply for the Health Connector because he was unaware of the program. When Appellant did apply through the Health Connector, he was determined eligible and was insured as of the date of the hearing. Based on all these facts, I will exercise my discretion to waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1028

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** December 30, 2021

**Decision Date:** January 6, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 30, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 29, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on June 14, 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 33 in February 2020, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$31,770 (Exhibit 2).
4. The Appellant did not have insurance for any months in tax year 2020 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in June 2021 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4



incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$31,770 could afford to pay \$132 per month for health insurance. In accordance with Table 4, the Appellant, age 33, living in Norfolk County, could have purchased private insurance for \$288 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.
8. The Appellant testified that they did not have access to affordable employer sponsored health insurance in 2020. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they lost their job in 2019 and remained unemployed for all of tax year 2020. The Appellant said that they used money in their 401K to pay for their living expenses and did not have any earned income or unemployment compensation income (Appellant Testimony).
10. The Appellant's monthly living expenses of \$1,562 included: car loan-\$500; car insurance-\$100; gasoline-\$152; food-\$650; telephone-\$60 and internet-\$100. The Appellant said that they had rent and utility expenses at the beginning of the year but could not afford to stay where they were living. The Appellant said that they struggled in 2020 and could not afford a health insurance payment while depleting their retirement income. I found the Appellant credible (Appellant Testimony).
11. The Appellant is currently insured through MassHealth (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did not have health insurance for any months of tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal in June 2021 citing financial hardship as the reason for not having health insurance.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance

was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$31,770 could afford to pay \$132 per month for health insurance. According to Table 4, the Appellant, age 33, living in Norfolk County, could have purchased a private insurance plan for \$288 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellant in tax year 2020.

The Appellant did not have access to employer sponsored health insurance in tax year 2020. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than 300% of the federal poverty level which was \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant testified that they lost their job in 2019 and remained unemployed for all of tax year 2020. The Appellant said that they did not have a source of income and was forced to liquidate the funds in their 401K account for living expenses. The Appellant said that they were unable to afford their apartment and did not have rent and utility expenses for most of 2020. The Appellant verified monthly living expenses totaling \$1,562 for transportation, food and other utilities and could not afford a health insurance premium while trying to conserve the funds in their retirement account. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(3).

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-899

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

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

**Hearing Date:** December 14, 2021

**Decision Date:** December 21, 2021

### **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 14, 2021. 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 (w/ attachment) (10 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 23 years old at the end of 2020.
2. During 2020, Appellant lived in another state at his parents' home. However, he spent six months of the year in Massachusetts where he worked as a seasonal employee from May through October. During that period of time, he lived in Essex County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.

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

4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$26,458. See Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable coverage standards at any point in 2020. See Exhibit 2.
6. However, Appellant was in fact covered as an insured under an insurance policy issued to his mother through her employment. See Exhibit 3. This coverage lasted throughout the entire time that Appellant was living and working in Massachusetts.

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

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

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

Appellant reported on the Schedule HC that he filed with his 2020 Massachusetts income taxes that he did not have health insurance at any point in 2020. Exhibit 2. However, he subsequently provided proof that he had in fact been covered under his parents’ insurance policy. See Exhibit 3. Further, he testified credibly that he was covered under that policy. Under the Affordable Care Act, insurers are required to maintain coverage for adult children of the insured until the child reaches 26 years of age. 42 U.S.C. § 300gg-14. Because Appellant was 23 in 2020, he was eligible for coverage under this provision.

Appellant did not understand precisely why this information had been misreported in the Schedule HC that he filed. However, his income tax return was prepared while he was out of state and thus the preparer may not have been familiar with the Massachusetts individual mandate provision.

Because I have found that Appellant was in fact covered for the entire time that he lived in Massachusetts under an insurance policy, I conclude that he should not be subject to the individual mandate penalty. Accordingly, I waive the penalty assessed against him in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1098

**Appeal Decision** The appeal is allowed. The tax penalty is waived in full.

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

**Hearing Date:** January 25, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants were a married couple who shall be referred to in this decision as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on January 25, 2022. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Request to Vacate Dismissal (1 page)

### **FINDINGS OF FACT**

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

1. During 2020, Appellants lived in Middlesex County. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with one dependent. Exhibit 2.
3. Husband was 40 at the end of 2020. Wife was 31 at the end of 2020. Exhibit 2.
4. Appellants reported on their Massachusetts tax return and Husband confirmed at the hearing that they had adjusted gross income in 2020 of \$46,238. See Exhibit 2.

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

5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes and Husband confirmed at the hearing that neither of them had health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. Husband lost his job in early 2020 as a result of the Covid pandemic. Before he lost the job, he worked part-time and was not offered insurance through that part-time employment. After losing his job, he was unemployed for the remainder of 2020.
7. Wife worked at a part-time job that did not offer her health insurance.
8. In previous years, Appellants did not have health insurance. They were not subject to a penalty because their income was below 150 percent of the federal poverty limit (FPL). Individuals whose household income is below 150 percent of the FPL are not subject to the individual mandate tax penalty.
9. In 2020, Husband received unemployment compensation, with enhanced benefits that were paid under federal and state programs to assist with the recovery from the Covid pandemic. As a result of these enhanced benefits, Appellants' household income for 2020 exceed 150 percent of the FPL and they were subject to the individual mandate penalty for the first time.
10. Appellants did not apply for insurance through the Massachusetts Health Connector in 2020 because they were unaware that they could be eligible.
11. Husband is a citizen. Wife has a green card.
12. Appellants applied for health insurance through the Health Connector at some point in 2021 and were determined eligible. They were insured by the end of the year and at the time of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

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

During 2020, Husband either worked at a part-time job that did not offer him insurance or was unemployed. Wife worked at a part-time job that did not offer her insurance. As a consequence, neither of them had access to employment-based insurance.

Further, Appellants would not have been able to afford unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector Board pursuant to G.L. c. 111M. Under those standards, a household of three persons like Appellants' with an annual income of \$46,283 is deemed able to afford 4.9 percent of income for health insurance. (I obtain this percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$2,265 annually or \$188 a month. In 2020, a household like Appellants in Middlesex County in which the oldest member was 40 years old would have had to pay \$793 a month in premiums for family coverage. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC.) Thus coverage would not have been affordable to them under state standards.

However, Appellants would have eligible for affordable government-subsidized insurance. Appellants' household income of \$46,238 is below \$63,990, which is 300 percent of the federal poverty level for a household of three. (I obtain that figure from Table 2 to the instructions for the 2020 Schedule HC.) Individuals with income below 300 percent of the federal poverty level are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet the other eligibility criteria, which include lack of access to affordable employer-sponsored insurance and citizenship or legal permanent residence in the United States. I conclude that Appellants met these other criteria, based on Husband's testimony and on the fact that Appellants were determined eligible when they applied in 2021. See 956 CMR § 12.04 (Connector Care eligibility requirements.) However, Appellants did not apply for Connector Care in 2020.

Because Appellants could have obtained affordable health insurance but didn't, I must determine whether they have stated a hardship sufficient to waive the penalty under the Health Connector's regulations. 956 CMR § 6.08. I conclude that they have. Appellants' income situation during 2020 was unpredictable because Husband was unemployed and Wife worked only part-time. Given that fact, Appellants were understandably reluctant to take on an additional expense. Appellants were unaware that they would be subject to the individual mandate tax penalty because in previous years, their income had been so low that they were below the threshold at which the penalty applied. Further, Appellants were unaware that they could have obtained affordable insurance through the Connector Care program, until they applied in 2021 and got insurance. In light of all these facts, I will exercise my discretion to 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 20-1099

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

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

**Hearing Date:** January 25, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 25, 2022. Appellant testified with the assistance of an interpreter. 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: Request to vacate dismissal (2 pages)

### **FINDINGS OF FACT**

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

1. During 2020, Appellant lived in Essex County. Exhibit 2.
2. Appellant filed her 2020 Massachusetts taxes as head of household with one dependent. Exhibit 2.
3. Appellant was 32 at the end of 2020. Exhibit 2.
4. Appellants reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2020 of \$34,920. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. Appellant worked at a job through an employment agency, which did not provide her with health insurance.
7. Appellant believed that she did not qualify for MassHealth, which is the state's Medicaid program. As a consequence, she did not apply for health insurance through the Health Connector.
8. Appellant had monthly expenses that were difficult for her to meet. These included rent of \$1,250, car loan payments of \$230 a month, and car insurance payments of \$230 a month. She had trouble finding money to pay for groceries.
9. Appellant was a citizen.
10. Appellant applied for insurance through the Health Connector at some point in 2021 when she sought medical treatment. She was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

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

During 2020, Appellant worked at a job that did not offer her health insurance. As a result, she did not have access to employment-based insurance.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant making \$34,920 for a household of two persons was deemed able to afford 6.2 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$1,606 annually or \$133 a month. During 2020, a person like Appellant who lived in Essex County and was 32 years of age would have had to pay \$288 a month for health insurance. (I obtain the premium figure

from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for her.

However, Appellant would have been eligible for Connector Care, which is government-subsidized insurance. Her annual household income of \$34,920 is below \$50,730, which is 300 percent of the FPL for a household of two persons like Appellant's. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet those other criteria based on her testimony and on the fact that she was determined eligible in 2021 when she applied.

Because Appellant could have obtained affordable government-subsidized insurance, but didn't, I must determine whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant had limited income during 2020 and her expenses were considerable. She had very little money to spare. She did not apply for the Health Connector because she did not think she was eligible based on the fact that she had earlier been determined ineligible for MassHealth. (MassHealth, which is the state's Medicaid program, has different eligibility requirements than the Health Connector, including an upper income threshold that is usually 133% of the FPL.) When Appellant did apply through the Health Connector, she was determined eligible and was insured as of the date of the hearing. Based on all these facts, I will exercise my discretion to waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1101

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

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

**Hearing Date:** January 25, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 25, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (8 pages)

### **FINDINGS OF FACT**

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

1. During 2020, Appellant lived in Suffolk County. Exhibit 2.
2. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.
3. Appellant was 49 at the end of 2020. Exhibit 2.
4. Appellants reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$24,813. See Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.

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

6. At the start of 2020, Appellant worked at a job that did not provide him with health insurance.
7. He lost the job in March because of the Covid pandemic.
8. Appellant did not know that he could qualify for Connector Care.
9. After Appellant learned in 2021 that he was being assessed a penalty for not having insurance in 2020, he investigated purchasing insurance and learned about obtaining insurance through the Health Connector. He applied on-line and obtained insurance effective June 2021. He was insured at the time of the hearing.

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

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

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

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

During 2020, Appellant worked at a job that did not offer health insurance. As a result, he did not have access to employment-based insurance.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. . Under those standards, a person like Appellant making \$24,813 for a household of one person was deemed able to afford only 2.9 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant’s case, that amounts to \$713 annually or \$59 a month. During 2020, a person like Appellant who lived in Suffolk County and was 49 years of age would have had to pay \$316 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for him.

However, Appellant would have been eligible for Connector Care, which is government-subsidized insurance. His annual household income of \$24,813 is below \$37,470, which is 300 percent of the FPL for a household of one person like Appellant’s. Individuals with incomes below 300 percent of the FPL are eligible for Connector Care, which is affordable government-sponsored insurance in Massachusetts, provided they meet the other eligibility criteria of citizenship or legal permanent residence in the United

States and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet those other criteria based on his testimony and on the fact that he was determined eligible in 2021 when he applied.

Because Appellant could have obtained affordable government-subsidized insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant had limited income during 2020. He had very little money to spare. He did not apply for the Health Connector because he was unaware of the program. When Appellant did apply through the Health Connector, he was determined eligible and was insured as of the date of the hearing. Based on all these facts, I will exercise my discretion to waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1168

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** January 26, 2022  
**Decision Date:** January 28, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant's appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2019 Signed by Appellant on 4/8/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 2(b):	Appellant's Documentation(1098-E) in Support of Appeal	(1 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/4/2022	(2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 33 in 2019, and lived in Hampshire County. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$34,955. (Exhibit 1).
3. Appellant opened his own law office in February 2019 and had startup expenses in the amount of approximately \$15,000. (Testimony).
4. Appellant had no income for approximately six (6) months. (Testimony).



5. Appellant had substantial student loan debt both public and private and was forced into forbearance. (Testimony, Ex. 2(b)).
6. Appellant investigated but could not afford the cost of government sponsored health insurance. (Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2019: Food: \$100, Car Insurance: \$83, Cable/Internet: \$70, Gas and Transportation Costs: \$200, Credit Card: \$150, Out of Pocket Medical RX and Appointments: \$360, Student Loan: \$600, totaling: \$1,563. (Testimony).
9. Appellant had business expenses of approximately \$2,500 per month. (Testimony).
10. According to Table 3 Appellant could have afforded \$145.65 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$250.00 per month.
11. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See Exhibit 1, 2(a) 1099HC).

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 2019, \$34,955.00 was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant could have afforded \$145.64 per month. According to Table 4, Appellant, age 33 and living in Hampshire County during the time he was being penalized for not having insurance, could have purchased insurance for \$250.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. There was credible testimony that the Appellant was self-employed and started his own law practice and investigated but could not afford government-sponsored program. (Appellant's Testimony). In this case, the Appellant credibly testified that he was self-employed and could not afford government-sponsored program was approximately \$300 per month. Thus, he did not have access to Employer Sponsored Insurance ("ESI").

Where the Appellant did not have access to ESI but did have access to insurance through a government-sponsored program, we need if the Appellant also experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2019 Food: \$100, Car Insurance: \$83, Cable/Internet: \$70, Gas and Transportation Costs: \$200, Credit Card: \$150, Out of Pocket Medical RX and Appointments: \$360, Student Loan: \$600, totaling: \$1,563. (Appellant's Testimony, Exhibits 2(a), (b)).

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. There was credible testimony that he experienced financial hardship and did not have adequate self-employment income until later in 2019 where he started a law office and would not have been able to afford to pay his monthly expenses of \$1,563.00 and afford the cost of purchasing private insurance for \$145.65 per month.

I find that pursuant to 956 CMR 6.08(1)(e),(3), this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibits 2(a)(b), Testimony). Accordingly, where the Appellant did not have access to affordable coverage and also experienced a hardship, he is not subject to a penalty.

Appellant should note that any waiver granted here is for 2019 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**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.

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

**Hearing Issue:** Appeal of the 2019 Tax Year Penalty

**Hearing Date:** January 26, 2022

**Decision Date:** January 28, 2022

#### **AUTHORITY**

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

#### **JURISDICTION**

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

#### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on January 26, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2019 Signed by Appellant on 6/24/2021.	(2 PP).
Exhibit 2(a):	Appellant's Eviction Complaint in Support of Appeal	(1 PP).
Exhibit 2(b):	Appellant's Utility Notice in Support of Appeal	(1 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 1/4/2022	(2 PP).

#### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported they were married, filing joint, had zero (0) dependent in 2019, lived in Norfolk County, and had a family size of 2. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$45,525 (Exhibit 1).
3. Appellant was in substantial arrears in their rent and utilities, were facing and eviction, could not afford to live in MA, and moved to Maine in July 2019. (Exhibit 2(a)(b), Testimony of Appellant).
4. Appellants were part year Massachusetts residents from January 2019 through July 2019. (Exhibit 1).
5. Appellant worked full time seasonal jobs and her Spouse worked part time in retail where he was paid minimum wage. (Testimony of Appellant).
6. Neither Appellant was offered employer sponsored insurance in 2019. (Testimony of Appellant).

7. Appellant investigated public sponsored insurance through the Connector but could not afford it given their rent arrears and eviction. (Exhibit 2(a)(b), Testimony of Appellant).
8. Appellant has been assessed a tax penalty for three (3) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2019: Rent: \$1,850, Food: \$300, Car Payment: \$400, Car Insurance: \$60, Cell Phones: \$180, Credit Card: \$250, Personal Loan: \$180, totaling: \$3,220. (Testimony).
10. Appellants were defending a summary process (eviction action) with \$2,375 in arrears. (Exhibit 2(a)(b), Testimony of Appellant).
11. Appellant was in substantial arrears in their utilities received a final utility notice with a bill amount of \$ 1,987. (Exhibit 2(a)(b), Testimony of Appellant).
12. According to Table 3 Appellant could have afforded \$278.84 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$514 per month.
13. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the poverty level, which was \$49,380.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three(3) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from January through July for their part year residence in Massachusetts. (See Exhibit 1, 2(a) 1099HC).

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

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

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

The evidence provided by the Appellant established that their income for 2019, \$45,525 was less than 300% of the federal poverty level, which for 2019 was \$49,380 for a married couple with a family size of two (2). According to Table 3 of Schedule HC for 2019, the Appellant could have afforded \$ 278.74 per month. According to Table 4, Appellant, ages 29 and 28 with zero (0) dependents and living in Norfolk County during the time they were being penalized for not having insurance, could have purchased insurance for \$514.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that neither her spouse was offered or had access to affordable ESI. She worked in seasonal jobs and her spouse worked part time in retail and paid minimum wage. (Appellant's testimony).

Where the Appellant did not have access to ESI and but did have access to insurance through a government-sponsored program, we need if the Appellant also experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2019 Rent: \$1,850, Food: \$300, Car Payment: \$400, Car Insurance: \$60, Cell Phones: \$180, Credit Card: \$250, Personal Loan: \$180, totaling: \$3,220. (Appellant Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. There was credible testimony which was corroborated that they were overdue in their rent payments as they were defending an eviction proceeding. The Appellant was in substantial arrears in their utilities received a final utility notice with a bill amount of \$ 1,987. (Exhibits 2(a)(b), Testimony). The Appellant experienced financial hardship and did not have adequate income to pay their monthly expenses of \$3,220.00 and afford the cost of purchasing private insurance for \$278.74 per month. I find that pursuant to 956 CMR 6.08(1)(a), (b) and (e), this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities, and is not subject to a penalty.

Appellant should note that any waiver granted here is for 2019 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:   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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc:     Connector Appeals Unit                                     Hearing Officer

**ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-937

**Appeal Decision:** The penalty is upheld  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 20, 2021  
**Decision Date:** January 17, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on December 20, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2020 Signed by Appellant on 6/5/2021. (2 PP).
- Exhibit 2(a): Apartment Rental Contract-Out of State-unsigned (1 P).
- Exhibit 2(b): Consulting Employment Agreement dated 11/21/201 (1 P).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/15/2021 (2 PP).

The record was left open until January 15, 2022, for the Appellant to documentation for proof of Out of state expenses for apartment and signed lease. On January 4, 2022, the Appellant submitted the following:

- Exhibit 4: Email dated 1/4/22 from the Appellant to the Connector regarding out of state apartment and Boston invoices for residence. (1 P).
- Exhibit 5: Out of State Lease and addendums
- Exhibit 6: Property insurance binder for Tenancy Binder: annual premium \$60.00 (2PP)

**FINDINGS OF FACT**

The record shows, and I so find:



1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 42 in 2020, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$198,893. (Exhibit 1).
3. Appellant was employed as a consultant and was not sure he had access to Employer Sponsored Insurance("ESI") but testified that he did not know the amount of the monthly premiums and that he could not afford the cost of insurance. (Appellant's Testimony).
4. Appellant testified that as part of his employment he resided in Georgia for the first 3 months of 2020, and then returned to Massachusetts during Covid. (Appellant's Testimony).
5. Appellant testified he was under a lease for the Georgia apartment for six (6) months in 2020 and paid \$2,000 a month plus expenses in addition to a payment of a mortgage and expenses on his Massachusetts property. (Appellant's Testimony, Ex 2(a)).
6. Appellant testified he investigated obtaining private and employer sponsored insurance through the Connector but could not afford same given his paying for out of state monthly expenses (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for seven (7) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant testified he remained a Massachusetts resident in 2020. (Appellant's Testimony).
9. Appellant had the following average monthly living expenses in 2020: Mortgage: \$2,500, GA rent: \$2,000, Utilities-MA \$100, GA \$120, Car Insurance: \$166, Travel: \$600, Cable Internet: \$60(MA), GA: \$100, totaling: \$5,646. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$1,325.95 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
11. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2020 because he didn't reside in Massachusetts during his period of un-insurance. G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that his income for 2020, \$198,893.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$1,325.95 per month. According to Table 4, Appellant, age 42 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$316.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did have access to Employer Sponsored Insurance ("ESI") but that he did not know the amount of the monthly premiums. Notwithstanding not knowing the cost of the premiums, he testified that he could not afford the cost of insurance. Thus, where the Appellant the Appellant testified that he did have access ESI but did not know the amount of the premiums, I find that the Appellant, given his income of \$198,893, had access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

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

2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant testified that he had the following average monthly living expenses in 2020: Mortgage: \$2,500, GA apartment rent: \$2,000, Utilities-MA \$100, GA \$120, Car Insurance: \$166, Travel: \$600, Cable Internet: \$60(MA), GA: \$100, totaling: \$5,646 (Appellant's Testimony).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant was working and had access to ESI but did not know the amount of the premiums and that he now has coverage under his ESI, but did not testify to the cost, I find he had access to affordable ESI through employer. In the alternative, the Appellant could have afforded a private plan in the amount of \$1,325.95 per month. Accordingly, the Appellant did not meet his burden that he did not have adequate income given his monthly expenses to afford the cost of purchasing private insurance for \$1,325.95 per month. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities.

## **PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

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

FINAL APPEAL DECISION: PA20-1013

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

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

**Hearing Date:** December 21, 2021

**Decision Date:** January 31, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on November 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

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

The record was left open until January 21, 2021, for the Appellant to submit documentation Documentation of correct income amended returns as well as evidence of monthly expenses and receipts

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married but filing separately with a family size of 2, was age 40 in 2020, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$129,464. (Exhibit 1).
3. Appellant testified that the income was not correct because the tax software he used was incorrect and included his spouse's income. (Appellant's Testimony, Ex 2(a)).

4. The Appellant testified his income tax was flagged and that he has filed amended returns which have been approved which corrected the income. (Appellant's Testimony, Ex 2(a)).
5. Appellant was laid off in April during Covid and could not afford the \$1,100 per month cost of COBRA from his Employer. (Appellant's Testimony, Ex 2(a)).
6. The Appellant testified he investigated obtaining Connectorcare and private insurance but was denied Connectorcare because his Spouse's income was being used to determine the cost of insurance. (Appellant's Testimony, Ex 2(a)).
  7. Appellant testified he was unemployed during the time he was being penalized, that his spouse was ill, and with the limited number of hours there is no way he could afford health insurance or a penalty at this time. (Appellant's Testimony, Ex 2(a)).
  8. Appellant investigated obtaining insurance through his spouse's employer's health insurance plan, but it was too expensive with his unemployment and his spouse's reduced earnings. (Appellant's Testimony, Ex 2(a)).
  9. The Appellant testified that Covid-19 has greatly affected [them], he has had no income since last July, which was only limited unemployment assistance, and have had sacrifices trying to keep food in the house, and that he could not afford to pay a fine. (Exhibit 2(a)).
  10. Appellant has been assessed a tax penalty for six (6) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
11. The Appellant had the following average monthly living expenses in 2020: Mortgage: \$1,600, Utilities: \$275(average), Car Insurance: \$160, Gas/Transportation: \$600, Food: \$1,500(due to a required special diet), Cable Internet: \$240, Cell Phone: \$ 165: totaling: \$4,540. (Appellant's Testimony).
12. According to Table 3 Appellant could have afforded \$863.09 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
13. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,730.00 for a family of two (2). (See Table 2 of Schedule HC 2020, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

The evidence provided by the Appellant established that the income for 2020, \$129,164.00 was more than 300% of the federal poverty level, which for 2020 was \$50,370.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$863.09 per month. According to Table 4, Appellant, age 40 and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased insurance for \$316.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he was laid off during Covid and could not afford COBRA. Appellant investigated obtaining insurance through his spouse’s employer’s health insurance plan, but it was too expensive with his unemployment and his spouse’s reduced earnings. The Appellant did not testify to the cost. (Appellant’s Testimony, Ex 2(a)). Thus, where the Appellant testified that he did not have access to affordable ESI under his Spouse’s plan but did not have information on the cost, I am unable to determine whether the Appellant had access to affordable Employer Sponsored Insurance (“ESI”).

Notwithstanding whether the Appellant had access affordable coverage through his Spouse’s ESI, he did have access through the individual market, and as such we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member,

sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant testified that he had the following average monthly living expenses in 2020: Mortgage: \$1,600, Utilities: \$275(average), Car Insurance: \$160, Gas/Transportation: \$600, Food: \$1,500(due to a required special diet), Cable Internet: \$240, Cell Phone: \$ 165: totaling: \$4,540. (Appellant's Testimony). The record was left open for the Appellant to send in documents to corroborate same, but no documents were submitted.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant did not testify to the cost of his spouse's ESI, he may have been able to obtain ESI through his Spouse's employer. Moreover, the Appellant did not testify to the amount of his spouse's income and whether was used for the essential monthly costs. Accordingly, the Appellant did not meet his burden that he did not have adequate income to afford the cost of purchasing private insurance for \$863.09 per month. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities.

However, to mitigate the harshness of full penalty, and where the Appellant testified that he was unemployed during the time he was being penalized, that his spouse was ill, and that he has a limited number of hours of employment and as such there is no way he could afford health insurance or a penalty at this time, the penalty is reduced.

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

## **PENALTY ASSESSED**

Number of Months Appealed:   6        Number of Months Assessed:   3  

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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



**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1015**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 10, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated June 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 3: Letter from Appellant in support of appeal.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 38 years old and resided in Plymouth County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$123,735 (Exhibit 2).
3. Appellant had access to and was enrolled in employer sponsored health insurance ("ESI") from January through July of 2020, paying approximately \$200 per month for his plan. (Exhibit 3; Appellants' Testimony).

4. Appellant submitted a Statement of Grounds for Appeal, dated June 15, 2021, and a letter in support of his appeal, claiming that he was unable to afford health insurance from August through December of 2020 as a result of being laid off from employment and purchasing a home. (Exhibit 3).
5. Appellant collected unemployment benefits from July of 2020 through September of 2021. (Appellant Testimony).
6. Appellant has not been able to find a job since his lay off in July of 2020, and he is currently unemployed and receiving neither a paycheck nor unemployment benefits. (Appellant Testimony).
7. Appellant is currently enrolled in a Health Connector plan. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

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

In support of his appeal, Appellant submitted a Statement of Grounds dated June 15, 2021, and a letter, claiming that he was unable to afford health insurance from August through December of 2020 as a result of being laid off from employment and purchasing a home, which doubled, at the same time as his layoff, the amount he was previously paying for housing. (Exhibit 3).

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

Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$123,735 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$123,735 was greater than 300% of the FPL, he was ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 38 and living in Plymouth County, \$298 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$123,735 could afford to pay \$825 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that he was enrolled in ESI from January through July of 2020, at a cost of approximately \$200 per month. (Exhibit 2; Appellant Testimony). Appellant was laid off in July of 2020 and lost his ESI at this time, which coincided with his purchase of a new home. (Appellant Testimony). Appellant collected unemployment benefits, including pandemic unemployment benefits, from July of 2020 through September of 2021. (Appellant Testimony). Appellant has not been able to find employment since then, believing his age and high earnings to be impediments, and he has depleted his savings paying his expenses. (Appellant Testimony).

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

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$4,079 per month: mortgage - \$2,773; property tax: \$310; homeowners' insurance - \$147; electric - \$166; gas - \$60; water - \$93; car insurance - \$46; cell - \$51; internet - \$33; food - \$400. (Appellant's Testimony). Despite gross earnings of \$4,271 per week prior to being laid off, Appellant's 2020 weekly unemployment benefits were capped at \$1,123 per week, which included pandemic unemployment benefits. After his lay off in July of 2020, Appellant was left with approximately \$100 per week after paying his essential expenses. (Exhibit 2). Given that private health insurance would have cost Appellant \$298 per month in 2020, I conclude that the cost of purchasing health insurance would

have caused Appellant to experience a serious deprivation of basic necessities, and that Appellant experience a financial hardship in 2020 as a result of his lay off and reduction in income, as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1016**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 10, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 2: Statement of Grounds for the Appeal dated June 15, 2021.
- Exhibit 3: Letter from Appellant in support of appeal dated June 15, 2021.
- Exhibit 4: Correspondence from City of Westfield dated April 5, 2021.
- Exhibit 5: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 61 years old and resided in Hampden County in 2020. (Exhibit 1).
2. Appellant and his spouse filed their 2020 Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income of \$43,114. (Exhibit 1).
3. In 2020, Appellant did not have health insurance and is appealing a 12-month penalty, while his spouse had Medicare coverage and had no penalty assessed for 2020. (Exhibit 1).

4. Appellant submitted a Statement of Grounds for Appeal dated June 15, 2021, claiming that in 2020 he received a foreclosure notice. (Exhibit 2).
5. In support of his appeal, Appellant submitted a letter dated June 15, 2021, supported by correspondence dated April 5, 2021 from the City of Westfield, claiming that property tax payments on his home were diverted by a family member for a number of years, resulting in a tax taking on the property, and because of his efforts trying to keep his property, Appellant was not able to afford health insurance in 2020. (Exhibits 3 and 4; Appellant Testimony).
6. Appellant does not currently have health insurance. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance in 2020, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty assessed against him for 2020. (Exhibit 1).

Appellant submitted a Statement of Grounds and a letter, both dated June 15, 2021, claiming that property tax payments on his home were diverted by a family member for a number of years resulting in a foreclosure notice on his property, and that the expense of saving his property made purchasing health insurance in 2020 unaffordable. (Exhibits 3 and 4; Appellant Testimony).

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

According to Schedule HC for 2020 Table 2, I find that Appellants' 2020 AGI of \$43,114 made Appellant eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$50,730 for a family of two). Because Appellants' 2020 AGI of \$43,114 was less than 300% of the FPL, Appellant was eligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 61 and living in Hampden County, \$387 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return as married filing jointly with no dependents, with an AGI of \$43,114, could afford to pay \$266 per month for an individual health insurance plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was greater than the amount Appellant could afford, I conclude that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

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

Appellant credibly testified that unbeknownst to him, a family member diverted property tax payments on his home for a number of years, which resulted in the City threatening to foreclosure on his property as a result of a tax taking due to non-payment of property taxes. (Exhibit 4). Appellant submitted correspondence from the City of Westfield ("The City") dated April 5, 2021, confirming that the City filed an Instrument of Taking on the property. (Exhibit 4). There was no mortgage on the property at the time of the tax taking filing. (Appellant Testimony). Appellant testified that this tax taking included 2020 property tax arrearages. (Appellant testimony). The City notified Appellant on April 5, 2021 that he had sixty days from the date of the letter to satisfy the tax lien by either listing the property for sale or securing a loan on the property. (Appellant Testimony). Appellant secured a mortgage on the property and paid off the tax lien in 2021. (Appellant Testimony). Appellant testified that as a result of having to take on this new mortgage payment, he was unable to afford the cost of health insurance in 2020. (Appellant Testimony).

Based on these circumstances, I find that Appellant has sufficiently demonstrated a financial hardship for 2020, such that he was not able to afford the cost of health insurance.

Accordingly, Appellant's appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against him 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 NOT be assessed a penalty for Tax Year 2020.

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

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

Hearing Officer



**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1018**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 14, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated June 19, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 58 years old and resided in Norfolk County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$20,716 (Exhibit 2).
3. Appellant has been self-employed for approximately 20 years and has no employees. (Appellant Testimony).
4. Appellant did not have access to affordable employer-sponsored health insurance in 2020. (Appellant testimony).

5. Appellant submitted a Statement of Grounds for Appeal, dated June 19, 2021, claiming that health insurance is unaffordable for him. (Exhibit 1).
6. Appellant was out of work without income due to an injury for approximately 2 months in 2020. (Appellant Testimony).
7. Appellant does not currently have health insurance. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance in 2020, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated June 19, 2021, claiming that based on the level of his self-employment income, he was unable to afford health insurance in 2020. (Exhibit 2).

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

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 58 and living in Norfolk County, \$432 per month to purchase an individual plan on the private insurance market. Based on the

Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$20,716 could afford to pay \$50 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was greater than the amount Appellant could afford, I conclude that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$20,716 made him eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$20,716 was less than 300% of the FPL, he was eligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Appellant testified that he has been self-employed, without employees, for close to twenty years, and has not been able in these years to purchase or provide his own health insurance, i.e. employer-sponsored health insurance ("ESI") through his business. (Appellant Testimony). Appellant testified that in 2020 he was again not able to afford to purchase health insurance. (Exhibit 1; Appellant Testimony). Appellant's inability to afford health insurance in 2020 was compounded by him experiencing an injury which kept him out of work and without earnings for a number of months. (Appellant Testimony).

While neither affordable private health insurance nor ESI was available to Appellant in 2020, based on his income, he was eligible for subsidized care through the Health Connector. Because affordable subsidized care was available to Appellant in 2020, a determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$1,630 per month: property tax: \$500; electric - \$95; gas - \$120; car insurance - \$105; cell - \$50; internet - \$160; food - \$600. (Appellant's Testimony). Given that Appellant's gross monthly earnings in 2020 of \$1,726 left him with less than \$100 per month after expenses, I conclude that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities, and that Appellant experienced a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant's appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against him 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 NOT be assessed a penalty for Tax Year 2020.

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

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

Hearing Officer

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 20-1021**

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

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

**Hearing Date:** December 23, 2021

**Decision Date:** January 21, 2022

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**AUTHORITY**

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

**JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c.30A and M.G.L. c.111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on December 23, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated June 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated November 4, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated November 24, 2021.

**FINDINGS OF FACT**

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

1. Appellant turned 36 years old and resided in Essex County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income of \$62,383 (Exhibit 2).
3. Appellant had health insurance solely in the month of November, 2020. (Exhibit 2).
4. Appellant submitted a Statement of Grounds for Appeal, dated June 14, 2021, claiming that in 2020 the expense of purchasing health insurance would have caused him a serious deprivation of

food, shelter, clothing or other necessities, and that he was more than 30 days in arrears in mortgage payments, or received an eviction or foreclosure notice. (Exhibit 1).

5. Appellant's employer laid him off in March of 2020 due to the pandemic. (Appellant Testimony).
6. Appellant went to work for a different employer in or around September of 2020, and enrolled in employer sponsored health insurance ("ESI") beginning in November, 2020. (Exhibit 2; Appellant Testimony).
7. Shortly thereafter, Appellant separated from this employer, and lost health insurance again in December of 2020. (Appellant Testimony).

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

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the "individual mandate", which requires that every adult resident of Massachusetts obtain insurance coverage "[s]o long as it is deemed affordable." Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

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

In support of his appeal, Appellant submitted a Statement of Grounds dated June 14, 2021, claiming that in 2020 the expense of purchasing health insurance would have caused him a serious deprivation of food, shelter, clothing or other necessities, and that he was more than 30 days in arrears in mortgage payments, or received an eviction or foreclosure notice. (Exhibit 1).

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

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

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 36 and living in Essex County, \$298 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an AGI of \$62,383, could afford to pay \$416 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant for certain months in 2020, as discussed below. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$62,383 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual plan). Because Appellants' 2020 AGI of \$62,383 was greater than 300% of the FPL, he was ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Appellant testified that his employer laid him off in March of 2020 due to the pandemic, and he began collecting unemployment benefits of approximately \$1,000 per week until returning to work in September. (Appellant Testimony). Appellant did not offer a credible reason for not having ESI or private health insurance in January and February of 2020 prior to this pandemic lay off. Accordingly, I find Appellant had access to affordable ESI or private health insurance in January and February of 2020. Given his unemployed status and resulting reduction in income from March through September of 2020, I conclude that during this time period Appellant did not have access to either ESI or affordable private insurance, and Appellant is entitled to a waiver of the individual mandate penalty for these months.

Appellant returned to work with a different employer in or around September of 2020, enrolling in employer sponsored health insurance ("ESI") with this employer beginning in November, 2020. (Exhibit 2; Appellant Testimony). Shortly thereafter, Appellant separated from this employer, and lost health insurance again by December of 2020. (Appellant Testimony). Given that in December Appellant had no access to ESI, no income and presumably no unemployment benefits coming in, I find that Appellant did not have access to ESI or affordable private insurance during that month. Accordingly, Appellant is entitled to a waiver of the individual mandate penalty for the month of December, 2020.

As discussed above, because Appellant had access to affordable ESI or private health insurance in January and February prior to his March 2020 lay off, a determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance during these two months. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused

a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2020 he had the following monthly expenses for basic necessities, totaling \$3,565 per month: mortgage - \$2,100; electric - \$50; gas - \$50; car insurance - \$270; cell - \$200; internet - \$145; food - \$700. (Appellant's Testimony). Appellant's gross monthly earnings and unemployment benefits in 2020 were \$5,199, income which significantly exceeds the cost of his essential expenses. Although he did not submit supporting documentation and did not claim this on his Statement of Ground for Appeal, Appellant testified that his utility bills were in arrears in 2020 for which he received shutoff notices. Despite the lack of supporting documentation, I will credit Appellant's testimony regarding these utility arrearages. Based on these 2020 utility arrearages, I find that the cost of purchasing health insurance in January and February of 2020 would have caused Appellant to experience a serious deprivation of basic necessities, and that Appellant experienced a financial hardship as defined by the regulation during these two months. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

**ADDENDUM**

Appellant is advised not to rely on a similar grant of leniency should he appeal the assessment of a penalty in any future tax year.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-825

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** November 18, 2021  
**Decision Date:** January 31, 2022

### AUTHORITY

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

### JURISDICTION

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

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

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) appeared at the hearing on November 18, 2021, which was held by telephone. They were authorized by their spouse (Appellant Spouse) to speak on the Appellant Spouse's behalf and to try to "fix things." (together, Appellants). (Primary Taxpayer's Testimony).

The hearing record consists of the Primary Taxpayer's testimony and the following documents, which were admitted into evidence without objection. In response to a post-hearing Open Record request, the Primary Taxpayer provided eighteen (18) pages of documents, which are included below as Exhibit 4. The Appellant Spouse did not provide any documents in response to a separate Open Record request directed to them.

Exhibit 1	First Hearing Notice dated October 22, 2020	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2020	1
Exhibit 3	Statement of Grounds for Appeal and Documents	10
Exhibit 4	Cover Letter and Benefits Documents	18

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

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Primary Taxpayer turned 31 years old in July 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with no dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 33 years old in June 2020. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Essex County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$93,364.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020 and each appeals their respective assessment. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$93,364.00, could afford to pay \$622.43 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 31, living in Essex County, could have purchased private market health insurance for \$576.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellants in 2020.
9. Employer-sponsored insurance was available to the Primary Taxpayer during 2020. (Primary Taxpayer's Testimony and Exhibit 4). No evidence was presented that employer-sponsored insurance was available to the Appellant Spouse during 2020. (Primary Taxpayer's Testimony and Exhibit 4).

10. The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$93,364.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).
11. The Primary Taxpayer was employed by a dialysis company during 2020. Their work hours were reduced for about five (5) months during 2020 because of the pandemic. (Primary Taxpayer's Testimony and Exhibit 4).
12. The Appellant Spouse was employed part-time as an electrician and part-time in another job during 2020. Appellant Spouse earned about \$45,000.00 that year from both jobs. (Appellant Spouse's Testimony).
13. The Appellants had their 2020 taxes prepared by a third-party tax company. (Primary Taxpayer's Testimony).
14. The Appellants were separated and in the process of getting a divorce during 2020. (Primary Taxpayer's Testimony).
15. The Primary Taxpayer enrolled in health insurance coverage for themselves only during 2020 and did not include their spouse because of their separation and impending divorce. (Primary Taxpayer's Testimony and Exhibit 4).
16. The Appellant Spouse came to the United States from a different country a few years ago. The Appellant Spouse thought they had been notified that they would not receive a penalty for not having health insurance during 2020. (Primary Taxpayer's Testimony, which I credit).
17. Appellants' 2020 monthly living expenses of \$2,130.00 included: Rent - \$1,400.00, Car insurance - \$120.00, Gas - \$60.00, Phone - \$200.00, Food - \$230.00, Student loans - \$120.00. (Exhibit 3 and Appellant Spouse's Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellants did not check any box on the Statement of Grounds for Appeal. The Primary Taxpayer testified that they had employer-sponsored insurance for themselves during 2020, provided post-hearing documentation of such insurance coverage and testified that the information from Schedule HC for 2020 showing that they did not have insurance was incorrect. (Primary Taxpayer's Testimony, which I credit, and Exhibit 4). A third party prepared the Appellants' 2020 tax returns. (Primary Taxpayer's Testimony).

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

To determine if the Appellants' twelve-month penalties 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 Taxpayers through employment, through private insurance, or through a government-sponsored program. If insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$93,364.00, could afford to pay \$622.43 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 31, living in Essex County, could have purchased private market health insurance for \$576.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellants in 2020.

Employer-sponsored insurance was available to the Primary Taxpayer during 2020, who enrolled in that coverage for themselves only that year given that they and their spouse were in the process of getting divorced. (Primary Taxpayer's Testimony and Exhibit 4). No evidence was presented that employer-sponsored insurance was available to the Appellant Spouse during 2020. (Primary Taxpayer's Testimony and Exhibit 4).

The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$93,364.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that the Primary Taxpayer had MCC-compliant health insurance during 2020 and that their Schedule HC had been completed incorrectly. Based on the totality of the circumstances and evidence contained in the administrative record, I further conclude that Appellant Spouse likely misunderstood the requirements of the individual mandate, which remain in effect, and would have experienced hardship if they had paid individually for health insurance during 2020. 956 CMR 6.08 (1) and (3).

For all these reasons, each Appellant’s twelve-month penalty assessment is waived entirely.

The Appellants should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellants should not assume that a similar determination will be made for subsequent tax years should either one again be assessed a tax penalty for failure to have health insurance that is MCC-compliant in Massachusetts, as the individual mandate requires. In the future, the Primary Taxpayer should review their Summary of Health Insurance Benefits to ensure that they have reported their coverage correctly as MCC-compliant on their Massachusetts Schedule HC. The Appellant Spouse must ensure that they have MCC-compliant insurance coverage for future years as well and report that coverage accurately on their Massachusetts Schedule HC.<sup>2</sup>

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

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<sup>2</sup>Both Appellants are encouraged to contact the Commonwealth Health Connector, Customer Service with any questions about coverage at either [www.mahealthconnector.or](http://www.mahealthconnector.or) or at 1-877-623-6765.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-891

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** December 10, 2021  
**Decision Date:** January 12, 2022

### AUTHORITY

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

### JURISDICTION

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

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

The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) appeared at the hearing on December 10, 2021, which was held by telephone, and was authorized by their spouse to speak on the Primary Taxpayer's behalf to the extent necessary. (Appellant Spouse's Testimony). The Appellant listed as the Primary Taxpayer on the Appeal Case Information from Schedule HC for 2020 (Primary Taxpayer) appeared briefly later in the hearing.

The hearing record consists of the testimony of the Appellant Spouse, brief testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection:

Exhibit 1	First Hearing Notice dated November 10, 2021	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2020	1
Exhibit 3	Statement of Grounds for Appeal and Supporting Letter	7

### FINDINGS OF FACT

The record shows, and I so find:

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

1. The Primary Taxpayer turned 61 years old in June 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with no dependents claimed. (Exhibit 3).
2. The Appellant Spouse turned 61 years old in December 2020. (Exhibit 2).
3. The Primary Taxpayer and Appellant Spouse (together, Appellants) lived in Essex County, MA during 2020. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$34,800.00. (Exhibit 2).
5. Neither the Primary Taxpayer or the Appellant Spouse had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020. (Exhibit 2).
6. Each Appellant was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020 and each appeals their respective assessment. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$34,800.00, could afford to pay \$179.80 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 61, living in Essex County, could have purchased private market health insurance for \$864.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2020.
9. Employer-sponsored insurance was not available to either the Primary Taxpayer or the Appellant Spouse during 2020. (Appellant Spouse's Testimony).
10. The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$34,800.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).
11. The Primary Taxpayer was self-employed running a car service. At some point after the Covid-19 pandemic began in 2020, they had to shut down their business because of a lack of clients, and they began collecting unemployment insurance. The Primary Taxpayer is expecting that some of their clients will return in 2021. (Appellant Spouse's Testimony).



12. The Appellant Spouse also had been employed before the pandemic began but soon after was laid off and also began collecting unemployment insurance. (Appellant Spouse's Testimony).
13. In July 2020, Appellant Spouse found new employment but was laid off again in November 2020. (Exhibit 3)
14. The Appellants believed that because they were receiving unemployment insurance and eventually received additional stimulus payments during 2020, they would not qualify for government-subsidized insurance through the Health Connector. They did not contact the Connector to discuss their options.<sup>2</sup> (Exhibit 3 and Appellant Spouse's Testimony, which I find credible).
15. The Appellants were anxious about their situation and the uncertainty about ongoing health and financial issues. (Exhibit 3 and Appellant Spouse's Testimony).
16. In April 2020, the Appellants successfully contacted their mortgage company, which agreed to forbear on collection of their payments for some period of time. (Exhibit 3 and Appellant Spouse's Testimony).
17. Appellants' 2020 monthly living expenses of \$2,880.92 included: Mortgage - \$1,834.92, Heat - \$127.00, Gas - \$25.00, Electricity - \$43.00, Food - \$425.00, Water/sewer - \$72.00, Miscellaneous (clothing, paper goods) - \$100.00, Car insurance - \$80.00, Credit card debt (dental) - \$54.00, Credit Card (BOA) - \$120.00. Additionally, they add other total expenses of \$4,957.00, including Federal back taxes - \$457.00, MA taxes - \$100.00, used car replacement (from accident) - \$4,400.00). (Exhibit 3 and Appellant Spouse's Testimony).
18. In November 2021, the Appellant Spouse became employed in a new job working for a health care facility. That employer offers insurance after a 60-day probationary period. (Appellant Spouse's Testimony).

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<sup>2</sup> Appellants were advised that the Connector's Open Enrollment period extends through January 23, 2022 and were encouraged to contact the Connector at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> before the close of the Open Enrollment period if they do not have MCC-compliant health insurance from another source. Given that Appellants received unemployment benefits during 2020 and the American Rescue Plan's provision to exclude the first \$10,200.00 of unemployment income from taxable income, they are encouraged to determine if their 2020 tax return needs to be amended and, if so, to determine if that would affect their eligibility for insurance through the Health Connector and update their 2022 Connector application if relevant.

## ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal saying that the expense of purchasing health insurance would have caused a serious deprivation of food and other living expenses. (Exhibit 3 and Appellant Spouse’s Testimony).

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

To determine if the Appellants’ twelve-month penalties 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 Taxpayers through employment, through private insurance, or through a government-sponsored program. If insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$34,800.00, could afford to pay \$179.80 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 61, living in Essex County, could have purchased private market health insurance for \$864.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2020.

Employer-sponsored insurance was not available to either the Primary Taxpayer or the Appellant Spouse during 2020. (Appellant Spouse’s Testimony).

The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2020 because their federal Adjusted Gross Income of \$34,800.00 was more than the Federal poverty level of \$50,730.00 for a family of two. (Schedule HC for 2020).

The Primary Taxpayer was self-employed running a car service. At some point after the Covid-19 pandemic began in 2020, they had to shut down their business because of a lack of clients, and they began collecting unemployment insurance. The Primary Taxpayer is expecting that some of their clients will return in 2021. (Appellant Spouse's Testimony).

The Appellant Spouse also had been employed before the pandemic began but soon after was laid off and also began collecting unemployment insurance. (Appellant Spouse's Testimony). In July 2020, Appellant Spouse found new employment but was laid off again in November 2020. (Exhibit 3).

The Appellants believed that because they were receiving unemployment insurance and eventually received additional stimulus payments during 2020, they would not qualify for government-subsidized insurance through the Health Connector. They did not contact the Connector to discuss their options. (Exhibit 3 and Appellant Spouse's Testimony).

The Appellants were anxious about their situation and the uncertainty about ongoing health and financial issues. (Exhibit 3 and Appellant Spouse's Testimony). In April 2020, the Appellants successfully contacted their mortgage company, which agreed to forbear on collection of their payments for some period of time. (Exhibit 3 and Appellant Spouse's Testimony).

Appellants' 2020 monthly living expenses of \$2,880.92 included: Mortgage - \$1,834.92, Heat - \$127.00, Gas - \$25.00, Electricity - \$43.00, Food - \$425.00, Water/sewer - \$72.00, Miscellaneous (clothing, paper goods) - \$100.00, Car insurance - \$80.00, Credit card debt (dental) - \$54.00, Credit Card (BOA) - \$120.00. Additionally, they add other total expenses of \$4,957.00, including Federal back taxes - \$457.00, MA taxes - \$100.00, used car replacement (from accident) - \$4,400.00. (Exhibit 3 and Appellant Spouse's Testimony). Appellants annual living expenses during 2020 of \$34,580.00 was essentially equivalent to their AGI of \$34,800.00. Additionally, they had debt from other expenses totaling about \$5,000.00 in 2020.

In November 2021, the Appellant Spouse became employed in another job working for a health care facility. That employer offers insurance after a 60-day probationary period. (Appellant Spouse's Testimony).<sup>3</sup>

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that Appellants have demonstrated that they would have experienced hardship if they had paid for health insurance during 2020. 956 CMR 6.08 (1) and (3). Their AGI during 2020 was insufficient to cover their monthly living expenses and outstanding debt, without the additional expense of health insurance. (Appellant Spouse's Testimony, which I credit). Appellants did not understand the Connector marketplace and the possibility that they may have qualified for subsidized insurance during 2020.

For all these reasons, each Appellant's twelve-month penalty is waived entirely.

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<sup>3</sup> As noted earlier, Appellant Spouse was advised that the Connector's Open Enrollment period extends through January 23, 2022 and was encouraged to contact the Connector if it appeared that the new job and health insurance coverage might not work out.

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

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1037 (F.Y.)

**Appeal Decision:** Appeal Approved, in part -- 2020 tax penalty overturned, in part

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

**Hearing Date:** January 5, 2022

**Decision Date:** January 23, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (3 pages);
3. Appellant’s Letter in Support of Appeal (1 page)
4. Landlord’s Email Demanding Payment (1 page, dated 4/20/20);
5. Landlord’s Email Demanding Payment (1 page, dated 4/18/20);
6. Appellant’s PayPal Record of 2020 Rent Payments (1 page, dated April (3 payments); May (2 payments), and September (1 payment); and
7. Health Connector’s Notice of Hearing (2 pages).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2020. The basis for the penalty was that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$59,379. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2020 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$59,379) was more than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$396 per month -- for health insurance coverage in 2020. (The calculation is 8.00 % multiplied by \$59,379 AGI = \$4,750.32 per year divided by 12 months = \$395.86 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$269 per month in 2020.
8. The Appellant rented an apartment with two roommates for three years while he attended a local university. As the Appellant concedes in his hearing testimony, in his supporting letter (Exhibit 3), and in the three supporting documents (Exhibits 4,

5 and 6), he fell behind in the rent that he (but not his roommates) owed to the landlord. The Appellant's share of the rent was \$1,100 per month. Testimony

9. The Appellant and his landlord ultimately agreed in 2020 that the Appellant owed \$10,172.72 in rent to the landlord, in addition to the Appellant's current \$1,100 per month rent payment. See, e.g., Exhibit 3 ("many months and over \$10,000 behind on my rental payments"); Exhibit 4 (landlord claims \$10,172.72 rent owed after search of bank records for 2018 and 2019); and Exhibit 5 (rent owed adjusted from \$14,472.72 to \$10,172.72). The Appellant made 7 payments totaling \$18,772.72 to the landlord for rent in 2020. Exhibit 6. As the Appellant's hearing testimony and Exhibits 4 and 5 from the landlord attest, neither party to the rental agreement was adept at keeping rental records. The payments made by the Appellant in 2020 averted legal action threatened by the landlord. Testimony. See also Exhibits 4 and 5.
10. The Appellant based his tax penalty appeal on the overdue rental payments that he paid in 2020. Exhibit 3 ("I am appealing my health insurance tax penalty for 2020 due to being extremely late on rental payments."). The Appellant characterized the current and overdue rent payments that he made in 2020 as a "significant portion of my income."). Exhibit 3.
11. The Appellant completed his university classes at the end of 2019 and graduated in February 2020. I find that the Appellant was covered by a student health insurance plan through December 2019. Testimony.
12. I find that the Appellant did not have health insurance coverage in 2020, the year at issue in this appeal. The Appellant was insured through an employer-sponsored health plan beginning in January 2021. Testimony.
13. Although the Appellant's status after his university graduation is not entirely clear, I find that sometime after his graduation in 2020 he began to work full-time for an employer where he previously worked part-time. During this period the Appellant was not offered health insurance through his job. Later in 2020 the employer offered the Appellant health insurance benefits starting in January 2021, and the Appellant enrolled in his employer's health plan. Testimony.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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



creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

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

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

In this case, the Appellant pleads that the tax penalty assessed by the DOR should be set aside because the apartment rent payments that he made to his landlord in 2020 were a “significant portion” of his income in 2020. See Exhibit 3 (“over \$10,000”) and Exhibit 1 (\$59,379 AGI). For 2020 the evidence shows that the Appellant paid \$18,777 to his landlord, of which \$10,172 was for rental payment that were in arrears. See Finding of Fact, No. 9, above.

Without taking the rent arrears into account, the objective standards set forth in DOR Tables 3 and 4 indicate that the Appellant could have afforded health insurance in 2020. Based on his income, the Appellant could afford to pay \$396 per month for health insurance, while the insurance premium at his age would have been \$269 per month. See Findings of Fact, Nos. 6 and 7. Other factors to consider in this appeal are the Appellant’s youth, his recent university graduation and entry into the workforce, and the fact that he had health insurance coverage in both the years before and after (2019 and 2021) the year at issue in this appeal.

After considering all the circumstances, I conclude that it is appropriate to reduce the penalty that the DOR assessed for 2020 from 12 months to 3 months. See 956 Code Mass. Regs. 6.08 (1) (a) (“more than 30 days in arrears in rent”) and 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 him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1038 (D.M.)

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

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

**Hearing Date:** January 5, 2022

**Decision Date:** January 23, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

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

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 3 month penalty for 2020. The basis for the penalty was that the Appellant was insured for the months of January – June 2020 and was not insured for the months of July – December 2020. 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 6 months insured = 6 months uninsured minus 3-month administrative grace period = 3 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$ 40,131. Exhibit 1.
3. The Appellant was 33 years old at the beginning of 2020 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$40,131) was more than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is not likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 7.45% of her income -- or \$249 per month -- for health insurance coverage in 2020. (The calculation is 7.45% multiplied by \$40,131 AGI = \$2,989/75 per year divided by 12 months = \$249.14 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$288 per month in 2020.
8. The Appellant was insured through her former employer for the months of January through June 2020 until that employment ended. Testimony and Exhibit 3. See also Exhibit 1.

9. The Appellant's application for unemployment insurance benefits was initially denied so that she had no income and lived off savings after her job ended in June 2020. The Appellant's unemployment insurance appeal was successful, and she subsequently received unemployment insurance benefits. Testimony and Exhibit 3.
10. The Appellant's search for new employment was successful, and she started a new job in October 2020. Testimony and Exhibit 3.
11. The Appellant enrolled in the health plan offered by her new employer. Her new insurance coverage was effective in January 2021 after the three month wait period required by her new employer. Testimony and Exhibit 3. See also Exhibit 1 (reflecting no insurance coverage for July – December 2020 and providing no information for the new tax year beginning January 2021).
12. I accept the Appellant's summary of living expenses set forth in her supporting letter (Exhibit 3): rent (\$545 per month); utilities (\$100 - \$150 per month); telephone (\$80 per month); groceries/food (\$150-250 per month).
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 2020 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 3 month tax penalty because the Appellant did not have health insurance coverage for the months of July – December 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

In this case, the Appellant established through her appeal hearing testimony and her supporting letter (Exhibit 3) that she was insured through her first employer for the

months of January – June 2020, that she was not employed and that she did not have a source of income for the months of July, August and September until her unemployment insurance appeal was successful. The Appellant also established that she started a new job in October that offered her employer-sponsored health insurance after a three month waiting period (October, November and December 2020). The Appellant’s new insurance coverage took effect in January 2021, immediately after the end of the 2020 tax year at issue in this appeal.

The Appellant was quite successful in obtaining a new job and new employer-sponsored health insurance after only a few months had elapsed given that the coronavirus epidemic started earlier in 2020. Considering all the circumstances I would not impose a penalty during the portion of 2020 when the Appellant did not have any income because she was not employed and her initial application for unemployment insurance had been denied until it was overturned on appeal. In addition, under the objective standards set forth in DOR Tables 3 and 4, the Appellant could not afford health insurance during the period when she was not working. See Findings of Fact, Nos. 6 and 7, above. See also Finding of Fact, No. 5, above.

In sum, the three month penalty assessed by the DOR is waived in its entirety. 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 him [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**PENALTY ASSESSED**

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

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

OR

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



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

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

Hearing Officer

Cc: Connector Appeals Unit



## Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1039 (I.D.)

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

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

**Hearing Date:** January 5, 2021

**Decision Date:** January 26, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 (4 pages);
3. Appellant's Letter in Support of Appeal (1 page);
4. Health Connector's Notice of Hearing (2 pages);
5. 2020 Bills – Xfinity;
6. 2020 Bills – National Grid (utility);
7. 2020 Bills – AT&T;
8. 2020 Bills – 2020 Credit Union Statements;
9. 2020 Bills – Car Insurance;
10. 2020 Bills – Car Excise;
- 10A. 2020 Bills – Bank Money Orders;

11. Child Support Payments; and
12. Lease.

## **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 2020. The basis for the penalty was that the Appellant was insured for the month of December 2020, but was not insured for the months of January through November 2020. 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 filed a Massachusetts personal income tax return for 2020 as a single person with one dependent. The Appellant's federal adjusted gross income (AGI) for 2020 was \$40,176. Exhibit 1.
3. The Appellant was 37 years old at the beginning of 2020 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$40,176) was less than 300% of the federal poverty level (\$50,730 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance for some months.
6. Based on DOR Table 3 the Appellant could afford to pay 6.20 % of his income -- or \$208 per month -- for health insurance coverage in 2020. (The calculation is 6.20% multiplied by \$40,176 AGI = \$2,490.91 per year divided by 12 months = \$207.57 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$298 per month in 2020.
8. The Appellant claims only one child as a dependent on his state tax return (Exhibit 1), but he actually has two children (Testimony and Exhibit 3). For one child the Appellant pays child support through the state Child Support Enforcement Unit (Exhibit 11). For the other child the Appellant pays child support directly to the child's mother. Testimony. Both children have MassHealth health insurance coverage through their mothers. Testimony.
9. The Appellant's rent increased to \$1,420 per month beginning September 2019 and to \$1,465 beginning September 2020. Exhibit 12.
10. The Appellant lost his job in 2020 due to the coronavirus pandemic. He applied for unemployment insurance benefits, but the payment of his benefits was erratic. A substantial portion of his 2020 adjusted gross income was from his unemployment insurance benefits. Testimony and Exhibit 3.
11. The Appellant obtained work through a temporary agency. He enrolled in the health plan offered through an employer that took effect in December 2020. Testimony and Exhibit 1.
12. The Appellant provided detailed documentary evidence of his living expenses for 2020, which I have reviewed. Detailed fact finding are not necessary due to the other findings of fact set forth above. See Exhibits 5 – 12.
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 2020 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector

Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of an 8 month tax penalty because the Appellant did not have health insurance coverage for the months of January through November 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

In this case, the Appellant was out-of-work for much of 2020 due to the coronavirus pandemic that began in early 2020. The Appellant’s application for unemployment insurance benefits was approved, but he received benefit payments only erratically for unknown reasons.

The Appellant was providing financial support for two children, even though only one child was claimed as a dependent on his state income tax return for 2020. The Appellant could not afford health insurance under the objective standards set forth in DOR Tables 3 and 4: he could afford to pay \$208 per month based on his income, but individual coverage would cost \$298 per month. Findings of Fact, Nos. 6, 7 and 8, above. The gap between what the Appellant could afford to pay and what insurance costs would increase if the calculation were made with two children, instead of just the one child claimed on the tax return.

In the context of the Appellant’s appeal I also recognize that the Appellant did obtain new employment during the pandemic and that he actually enrolled in health insurance coverage starting in December 2020.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] 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.”).

**PENALTY ASSESSED**

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

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Massachusetts Health Connector Appeals Unit





# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1042

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

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

**Hearing Date:** January 6, 2022

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 6, 2022. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Statement of Grounds (w/ attachment) (17 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 54 years old at the end of 2020.
2. During 2020, Appellant lived in Worcester County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$33,699. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable coverage standards from January through September, but that he was insured from October through December.
6. Appellant was laid off from his job at the end of 2019 because his employer relocated out of state.
7. Appellant was unemployed and collecting unemployment insurance for much of 2020. His income was essentially reduced by half.
8. In October, he began working for a temporary agency. He believes that he obtained health insurance through that temporary employment.
9. During 2020, Appellant struggled to meet his expenses.
10. He fell behind in his rent and in December 2020, he received a notice to quit his rental apartment because of unpaid rent. See Exhibit 3.
11. Additionally, Appellant was threatened with having his electricity cut off because of non-payment of utility bills in 2020. See Exhibit 3.
12. Appellant stated that at some point in 2020, he applied for health insurance through MassHealth, but he was told that his income was too high to qualify him for coverage.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector’s “Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00”, which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for only nine months. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only six months.

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

First, Appellant was unemployed during the period in 2020 when he did not have insurance. Thus, he could not have obtained employment-based insurance.

Appellant testified that he was unable to obtain government-subsidized insurance during 2020. It is not clear why this occurred. Appellant stated that he was told, when he applied, that his income was too high. However, his annual household income of \$33,699 is below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet other eligibility requirements of citizenship or legal permanent residence and lack of access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) I find that Appellant did meet those criteria based on his testimony. However, it is possible that, in applying for insurance, Appellant overstated his income or predicted that his 2020 income would be higher than it actually was. In any event, he did not obtain Connector Care in 2020.

Finally, Appellant was unable to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who was making \$33,699 for a household of one person was deemed able to afford 5 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$1,684 annually or \$140 a month. During 2020, a person like Appellant who lived in Worcester County and was 54 years of age would have had to pay \$420 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

Because Appellant could have obtained affordable government-subsidized insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Appellant testified credibly and offered corroborating documentary evidence that he received a notice to quit his rental apartment in 2020. Receipt of an eviction notice is a ground for waiving the penalty under the regulations. Id. § 6.08(1)(a). Additionally, Appellant testified credibly and produced corroborating evidence that he received a shut-off notice for electricity in 2020. Receipt of a shut-off notice for an essential utility, such as electricity, is considered grounds for a hardship waiver as well. Id. § 6.08(1)(b). Because Appellant has stated grounds that meet the hardship criteria under the governing regulations, I will waive the penalty assessed against Appellant in its entirety.

**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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1043

**Appeal Decision** The appeal is denied. The tax penalty is waived in part.

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

**Hearing Date:** January 6, 2022

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants were a married couple who shall be referred to in this decision as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on January 8, 2022. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds with attachment (6 pages)

### **FINDINGS OF FACT**

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

1. Appellants were assessed a penalty because Husband did not have health insurance in 2020. Exhibit 2.
2. Appellants filed their 2020 Massachusetts taxes as married filing jointly with no dependents. Exhibit 2.
3. During 2020, Appellants lived in Norfolk County. Exhibit 2.
4. Husband was 29 at the end of 2020. Wife was 32 at the end of 2020. Exhibit 2.
5. Appellants reported on their Massachusetts tax return and Husband confirmed at the hearing that they had adjusted gross income in 2020 of \$130,229. See Exhibit 2.

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

6. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes and Husband confirmed at the hearing that Husband did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Wife had insurance meeting MCC standards for the entire year.
7. During 2022, Wife worked for an employer that offered health insurance. She was enrolled in that insurance throughout 2020. Based on pay stubs that Appellants submitted, the cost of that insurance was about \$320 a month pre-tax. Exhibit 3.
8. Wife's employer-based insurance would have covered Husband. However, Husband stated that the cost of adding him to the coverage would have been about \$400 a month, which they considered to be too high.
9. Based on the pay stubs Appellants submitted, it appears that in 2019, Appellants were paying \$400 a month for health insurance, but that amount was reduced to approximately \$320 a month. Exhibit 3. This reduction is the result of a decision to drop Husband from coverage under the plan, thus achieving a savings of \$400 a month.
10. Husband started a new job early in 2020, working through a staffing company. The staffing company did not offer him insurance. He hoped to be hired as a permanent employee, but that never occurred.
11. In November 2020, he attempted to obtain insurance and contacted an organization that he thought was the Massachusetts Health Connector. Unfortunately, the organization he contacted was not the Health Connector. He testified that he went to a website that he found after googling "health connector" and then provided his telephone number. Shortly afterward he was contacted by a sales agent, who sold him a policy. The Massachusetts Health Connector would not have collected a phone number or made an outgoing sales call. Instead, persons who go to the Health Connector's website for insurance are instructed to open a secure, personal account, with a password, and then to provide information required to determine eligibility and the applicable rate.
12. That organization sold him a policy that cost \$300 a month, but that did not offer him adequate coverage. He cancelled that policy after a short time.
13. In October 2021, Appellants separated and Husband moved out of state.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

In this case Appellants were assessed the individual mandate penalty because Husband was without insurance in 2020. G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "creditable" insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

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

Husband worked at a temporary job through a staffing agency and was not offered insurance through that job. However, he was eligible to receive insurance through Wife's employer. He stated that insurance would have cost an additional \$400 a month. Wife was already paying \$300 a month for her own coverage. The additional \$400 a month would have been affordable for Appellants under state standards set by the Health Connector Board pursuant to G.L. c. 111M. Under those standards, a household of two persons like Appellants' with an annual income of \$130,229 is deemed able to afford 8 percent of income for health insurance. (I obtain this percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$10,418 annually or \$868 a month. As stated, Wife was paying \$300 a month (pre-tax) for her health insurance through work. The additional cost of \$400 a month (also pre-tax) would therefore have brought the total cost of insurance for the couple to \$700 a month, which was affordable.

Further, Husband could have afforded unsubsidized insurance purchased on the non-group market under state affordability standards. As stated above, Appellants are deemed able to afford \$868 a month for health insurance. During 2020, a person like Husband who lived in Norfolk County and was 29 years of age could have obtained insurance for \$269 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount, even when added to the \$300 a month that Wife was paying for her insurance, would have been affordable. Husband claimed that he sought to buy insurance during the year, but wound up paying \$300 a month for insurance that did not cover basic services. It is not clear where he purchased this product, but it appears not to have been insurance offered by a licensed insurer, such as he might have purchased if he had applied through the Massachusetts Health Connector.

Finally, although it is not necessary for my decision, I note that Husband would not have been eligible for government-subsidized insurance. Appellants' joint income of \$130,229 is above \$50,730, which is 300 percent of the federal poverty level. (I obtain that figure from Table 2 to the instructions for the 2020 Schedule HC.) Individuals with income above 300 percent of the federal poverty level are not eligible for Connector Care, which is government-subsidized insurance in Massachusetts. See 956 CMR § 12.04 (Connector Care eligibility requirements.)

Because Husband could have obtained affordable health insurance either through Wife's employer or by purchasing it on the non-group market, I must determine whether Appellants have stated a hardship sufficient to waive the penalty under the Health Connector's regulations. 956 CMR § 6.08. I conclude that they have not. They did not establish that they experienced any of the listed hardships. They claimed on the Statement of Grounds that they submitted in support of their appeal that they incurred "a fire, flood, natural disaster, or other natural or human-caused event causing substantial household and/or personal damage...." Exhibit 3. However, the evidence did not support the claim. They claim that they were adversely impacted by the coronavirus pandemic because they both contracted the illness during 2020. However, they made the decision not to cover Husband under the Wife's



employment policy at the start of 2020, before the coronavirus pandemic began. Further, despite the fact that they both were sick at some point during the year, they both worked throughout the year. Wife stated in her written statement supporting the appeal that “[Husband] and I worked full-time through the entire pandemic year.” Exhibit 3. Their annual income was relatively high, despite any short-term periods when they weren’t working. Further, it is not convincing to argue that an illness experienced during the year is an excuse for not obtaining health insurance at the start of the year.

Despite the foregoing, I acknowledge that, based on Husband’s testimony, Appellants separated in late 2021, after the period under consideration here, and Husband has moved out-of-state. As a result, they are likely experiencing some financial disruption. Accordingly, I will exercise my discretion to reduce the penalty assessed against them from 12 months to six months.

**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 2020.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-1046

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

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

**Hearing Date:** January 6, 2022

**Decision Date:** January 10, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 8, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds with attachment (36 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 51 at the end of 2020.
2. Appellant filed his 2020 Massachusetts taxes as single with one dependent. Exhibit 2. The dependent was his woman friend who lived with him and whom he supported.
3. During 2020, Appellant lived in Norfolk County. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$34,607. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020.
6. During 2020, Appellant worked at a retail job at which he was paid an hourly wage of \$12.50. His hours were irregular and less than full-time.
7. His employer offered him insurance, but the cost would have been \$55 a week. He considered that too expensive and so did not take it.
8. Appellant applied for health insurance through the Massachusetts Health Connector, but was rejected because he stated in his application that he had affordable health insurance offered through an employer.
9. Appellant was supporting his girlfriend, paying the entire rent on the room that they rented. He also was making car payments of \$462 a month.
10. Appellant frequently was required to obtain food at a food bank because he did not have enough money to purchase it in the grocery store.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant was offered insurance through his employment. That insurance would have cost him \$55 a week or \$220 a month. This amount would not have been affordable for him under state standards set by the Health Connector Board pursuant to G.L. c. 111M. Under those standards, an individual like Appellant with an annual income of \$34,607 is deemed able to afford 5 percent of income for health insurance. (I obtain this percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In this case, that amounts to \$1,730 annually or \$144 a month. Thus, insurance costing \$220 a month would therefore not have been affordable.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market under state affordability standards. As stated above, Appellant is deemed able to afford \$144 a month for health insurance. During 2020, a person like Appellant who lived in Norfolk County and was 51 years

of age would have had to pay \$420 a month for insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount, even when added to the \$300 a month that Wife was paying for her insurance, would have been affordable.

Finally, Appellant was unable to obtain government-subsidized insurance. Appellant's income of \$34,607 is below \$37,470, which is 300 percent of the federal poverty level. (I obtain that figure from Table 2 to the instructions for the 2020 Schedule HC.) Individuals with income below 300 percent of the federal poverty level are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they are also eligible to receive Advance Premium Tax Credits (APTCs) under the federal Affordable Care Act (ACA). See 956 CMR 12.04 (Connector Care eligibility requirements.) Under the ACA, an individual is not eligible to receive APTCs if the individual is eligible to receive coverage from an employer that costs less than 9.5 percent of the individual's income. 26 U.S.C. § 36B(c)(2)(C)(i)(II). Appellant was denied Connector Care coverage because it was determined that he had employer-sponsored insurance that was affordable under federal standards.

Because Appellant could not have obtained affordable health insurance through any source, he is not subject to the individual mandate penalty. Therefore, I am not required to determine whether he has stated a hardship sufficient to waive the penalty under the Health Connector's regulations. 956 CMR § 6.08. Instead, I will waive the penalty assessed against him in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1054 (S.C.)

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

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

**Hearing Date:** January 10, 2021

**Decision Date:** January 26, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (3 pages);
3. Appellant’s Letter in Support of Appeal (1 page);
4. 2020 Credit Union Statement (17 pages); and
5. Health Connector’s Notice of Hearing (2 pages).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2020. The basis for the penalty was that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
  2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$24,199. Exhibit 1.
  3. The Appellant was 29 years old at the beginning of 2020 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
  4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
  5. The Appellant's 2020 AGI (\$24,199) was less than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
  6. Based on DOR Table 3 the Appellant could afford to pay 2.90% of her income -- or \$58 per month -- for health insurance coverage in 2020. (The calculation is 2.90 % multiplied by \$24,199 AGI = \$701.77 per year divided by 12 months = \$58.48 per month.)
  7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$269 per month in 2020.
  8. The Appellant worked as a waitress in 2020 on an irregular work schedule that became even more limited when the coronavirus

pandemic began in early 2020. Due to the pandemic the restaurant where she worked shifted to take out only, and her work schedule became quite limited. Testimony and Exhibit 3.

9. The Appellant's employer offered health insurance as a job benefit, but the insurance was available only when the Appellant worked a minimum of 30 hours per week. The Appellant was not working the minimum hours at the beginning of 2020. She did not work the minimum hours after the restaurant shifted to take out only due to the pandemic. Testimony and Exhibit 3.
10. The Appellant was working more regularly late in 2020. She began to satisfy the minimum hours requirement and qualified for her employer's health plan as soon as she satisfied the wait period imposed by the employer. The Appellant began to receive health insurance benefits in January 2021. Testimony and Exhibit 3.
11. The Appellant received unemployment insurance benefits from April through December 2020. She also received the pandemic stimulus payments. She used \$2,000 from her savings to pay her bills, and she sustained a \$3,715 credit card balance. Exhibit 3.
12. I credit the living expenses that the Appellant set forth in Exhibit 3 covering the period March – December after she carefully allocated her one-half share of shared expenses: rent (\$7,740); car lease (\$4,380); utility (\$484,21); second utility (\$1,059.24); cell service (\$1,238.) and food (\$150 per week). Exhibits 3 and 4.
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 2020 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC

Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual



mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

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

For a waitress, like the Appellant, the coronavirus pandemic was major change in work schedules and wages. For the Appellant, this is reflected in the fact that nearly all of her income in 2020 came from unemployment insurance benefits supplemented by government stimulus payments. The Appellant also withdrew \$2,000 from her savings and sustained a \$3,715 credit card balance.

The pandemic also affected the Appellant’s prospects for health insurance plan offered by her employer. Once the restaurant responded to the pandemic by shutting down all service except takeout food orders the Appellant had no prospect of satisfying the weekly minimum work schedule to participate in the employer’s health plan. When the situation improved at the end of the year the Appellant was enrolled in the employer’s health plan starting in January 2021.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1056 (E.F.)

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

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

**Hearing Date:** January 10, 2021

**Decision Date:** January 28, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

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

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2020. The basis for the penalty is that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed an amended Massachusetts personal income tax return for 2020 as a head of household with one dependent. The Appellant also has a stepchild who is not listed as a dependent on the tax return, as well as a Wife whom he supports. Testimony and Exhibit 3.
3. The Appellant's federal adjusted gross income (AGI) for 2020 was \$102,748. Exhibit 1.
4. The Appellant was 31 years old at the beginning of 2020 and resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.
5. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
6. The Appellant's 2020 AGI (\$102,748) was substantially more than 300% of the federal poverty level (\$50,730 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
7. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$685 per month -- for health insurance coverage in 2020. (The calculation is 8.00 % multiplied by \$102,748 AGI = \$8,219.84 per year divided by 12 months = \$684.98 per month.)
8. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$288 per month in 2020.
9. In 2020 the Appellant purchased a house with a \$13,000 down payment and a \$2,300 per month mortgage payment. The Appellant soon encountered multiple unexpected problems that overwhelmed both his expectations and his finances. Testimony and Exhibit 3.

10. Due to the onset of the coronavirus epidemic (COVID-19) the Appellant's Wife and family did not relocate to the United States as expected since her visa was cancelled. The Appellant had expected that his Wife would obtain a job in the United States and contribute to the household income. Instead, he was sending money abroad. Testimony and Exhibit 3.
11. The coronavirus epidemic also increased the cost of materials to make necessary repairs to the house, made it hard to hire workers to help at the house, and made it difficult to get materials. Testimony and Exhibit 3.
12. The Appellant lost a job. Though the Appellant found a new security job his hourly wage declined from \$25 per hour at his old job to \$17.50 at his new job. The Appellant worked substantial overtime – over 80 hours per week -- in order to pay his bills and renovate the house. Testimony and Exhibit 3.
13. After the purchase, the Appellant learned that the house had major problems that required a gut rehab for much of the house. The Appellant performed much of the work on his own, joined by friends or people he could hire to assist him. Testimony and Exhibit 3.
14. Due to the unexpected condition of the house the Appellant was unable to rent the top floor to tenants in 2020 as he had planned. The Appellant finally obtained tenants at the very end of the year. Testimony and Exhibit 3.
15. The Appellant entered into a debt consolidation plan because he was so far behind paying his unexpected bills for the house. The Appellant also had outstanding bank loans and credit card bills. Testimony and Exhibit 3.
16. At the very end of 2020 the Appellant's son became quite ill, requiring a CAT scan. Testimony
17. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information

submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

The appeal in this case is unusual due to the amount of the Appellant’s federal adjusted gross income (AGI) in 2020. On the other hand, the Appellant was working in excess of 80 hours per week in order to make up for the loss of wages through his job and, more significantly, to cover the unexpected expenses he incurred for the house he bought in 2020. The Appellant had also lost anticipated income from his Wife getting a job in the United States when her travel plans were disrupted, and her visa cancelled, due to the coronavirus pandemic. In the end the Appellant entered into a debt consolidation plan to address his shaky financial situation.

In an ordinary year the Appellant would be expected to purchase health insurance and he should expect to pay a tax penalty assessed by the Department of Revenue if he did not obtain health insurance. This was not an ordinary year, however, and the Appellant has presented sufficient evidence to establish a financial hardship in 2020. Hopefully, the Appellant’s problems will be short-lived, and he will purchase health insurance coverage in the future as required by state law.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] 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.”).



**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1057 (N.L.)

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

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

**Hearing Date:** January 10, 2021

**Decision Date:** January 29, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (with underlining (4 pages);
3. Appellant’s Copy of Requirements (1 page, dated 6/18/21);
4. Appellant’s 2020 IRS Form 1095-C (1 page);
5. Appellant’s Second 2020 IRS Form 1095-C (1 page); and
6. Health Connector’s Notice of Hearing (2 pages).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2020. The basis for the penalty assessment is that the Appellant was insured for the months of September – December 2020, but was not insured for the months of January – August 2020. Exhibits 1 and 2. I will make further findings below concerning the Appellant's health insurance coverage and her residence. (The calculation for the penalty assessed by the DOR is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant underlined “. . . you didn't reside in Massachusetts during your period of uninsurance” on the printed form as the basis for her appeal. She reasserted this reason in her testimony at the hearing on her tax penalty appeal. Exhibit 2, page 2. See also Exhibit 3.
3. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$37,293. Exhibit 1.
4. I find that the Appellant resided in Colorado for the months of January through July 2020 where she was employed as a school teacher. I base this finding on her testimony at the appeal hearing which is verified by the IRS Form 1095-C addressed to the Appellant that names an employer at an address in Colorado. Exhibit 4. (Exhibit 4 also establishes that the Appellant was insured through her Colorado employer for the months of January – July 2020 (see checked boxes in Part III).)
5. In August 2020 the Appellant moved to Massachusetts where she resided at the address in Suffolk County that appears in Exhibit 1 (DOR's extract from Schedule HC filed by the Appellant), Exhibit 2, page 2 (completed appeal form filed by the Appellant), and Exhibit 6 (Health Connector's hearing notice). Testimony.
6. The Appellant was employed as a school teacher in Massachusetts for the months of September – December 2020, and she filed a Massachusetts state income tax return based on her 2020 earnings in Massachusetts. Testimony Exhibit 1 and Exhibit 5.

7. The Appellant was insured in Massachusetts for the months of September – December 2020 through her employment as a school teacher in Massachusetts. I base this finding on the Appellant’s testimony and on the second IRS Form 1095-C that the Appellant submitted in support of her appeal (Exhibit 5).
8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2020 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 5 month tax penalty because the Appellant did not have health insurance coverage in Massachusetts for the months of January through August 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

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

Massachusetts residence is the issue in this appeal.

The first 2020 IRS Forms 1095-C that the Appellant submitted in support of her appeal verifies that the Appellant resided and was employed in Colorado for the months of January – August 2020 (Exhibit 4). The second IRS Form 1095-C that the Appellant submitted verifies the Appellant’s testimony that she moved to Massachusetts where she resided for the months of September through December 2020 (Exhibit 5). Exhibit 5 also establishes that the Appellant had health insurance coverage through her employment as a school teacher for all the months that she resided in Massachusetts (see checked boxes for September, October, November and December in Part III).

In sum, I vacate the entire penalty that the DOR assessed for 2020 because the Appellant was not a Massachusetts resident, as required by state law, during the period when she was not insured in Massachusetts. See Mass. Gen. Laws c. 111m, sec. 2(a), above.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Massachusetts Health Connector Appeals Unit





## Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-1059 (S.B.)

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

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

**Hearing Date:** January 10, 2022

**Decision Date:** January 29, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 with handwritten statement: "I was laid off and still [am] not working" (5 pages, dated 6/15/21); and
3. Health Connector's Notice of Hearing (2 pages).

### **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of an 8 month penalty for 2020. The basis for the penalty is that the Appellant was insured for the month of January 2020 but not for any subsequent months in 2020. 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 filed a Massachusetts personal income tax return for 2020 as a Head of Household with one dependent. The Appellant's federal adjusted gross income (AGI) for 2020 was \$43,521. Exhibit 1. See Findings of Fact, No. 8, below (2 children).
3. The Appellant was 45 years old at the beginning of 2020 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$43,521) was less than 300% of the federal poverty level (\$50,730 for a two person household or \$63,990 for a three person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 7.40% of her income -- or \$268 per month -- for health insurance coverage in 2020. (The calculation is 7.40% multiplied by \$43,521 AGI = \$3,220.55 per year divided by 12 months = \$268.37 per month.) The amount that the Appellant could afford to pay for health would decrease if the calculation included her second child. See DOR Table 3 (4.90% of AGI) and Findings of Fact, No. 8, below.
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$361 per month in 2020.
8. I find that the Appellant has two children. The Appellant claims one child as a dependent on her state income tax return (see Exhibit 1) and the Father claims the

second child as a dependent on his separately file state income tax return. Both children live with the Appellant. The children have health insurance coverage through their Father. Testimony.

9. The Appellant was employed in January 2020 and was enrolled in the health plan provided by her employer as a job benefit. Testimony and Exhibit 1.
10. The Appellant was laid off from her job, with the consequent loss of her health insurance coverage, at the end of February. Testimony. See also Exhibit 1.
11. The Appellant filed for and received unemployment insurance benefits after she lost her job. This was the Appellant's first experience on unemployment since she has, as she described it, worked all her life. Testimony.
12. The Appellant did not find a new job until June 2021, when she enrolled in the health plan offered by her new employer as a job benefit. Testimony.
13. The Appellant was fearful of losing her house due to her unemployment, and she therefor pared her expenditures to the minimum. The Appellant did not fall behind in her mortgage payments. Testimony.
14. The Appellant used her credit cards to pay living expenses and has a \$15,000 credit card balance. Testimony.
15. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
16. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth

income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 8 month tax penalty because the Appellant did not have health insurance coverage in 2020 after the month of January. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a

hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant has presented evidence on appeal to establish that she sustained a financial hardship in 2020.

The Appellant lost her job and her employer-sponsored health insurance in early 2020. The coronavirus pandemic (COVID-19) contributed to both her job loss and to her inability to find a new job until mid-2021, when she also resumed her health insurance coverage. Unemployment insurance benefits were the Appellant’s source of income – in addition to credit card charges – for the remainder of 2020.

The objective standards in DOR Tables 3 and 4 establish that the Appellant could not afford health insurance after she lost her job in 2020. She could afford to pay \$268 per month for health insurance based on her income, but the monthly premium for individual coverage would cost her \$361. This gap would only increase if the Appellant’s second child were factored into the equation. See Findings of Fact, Nos. 6, 7 and 8, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([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:   8        Number of Months Assessed:   -0-  

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Massachusetts Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-952

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2019 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 9, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated November 12, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated August 10, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**



The record shows, and I so find:

1. The appellant is forty-six years old and is married. Her husband is thirty-two years old. They live in Norfolk County, Massachusetts.
2. Appellant's husband is a fuel station employee. The Appellant owns a fuel station. Appellant was notified that her lease was being terminated and was extended month by month in 2019. Appellant felt that they could not afford health insurance in 2019 because she was fearful of her lease being terminated.
3. Appellant's husband did not have health insurance in 2018, 2020 and in 2021. Appellant's husband appealed his penalty in 2018 and was penalized four months.
4. The Appellant did submit a Statement of Grounds for Appeal-2019 under "Other. During 2019 other circumstances such as applying the Affordability Tables in Schedule HC 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 2019. 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 2019.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$146,776.00 was more than \$50,730.00. The monthly premium for health insurance available on the private market in Norfolk County for a 45 year old married woman was \$699.00. The tables reflect that Appellants could afford \$978.50 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant' husband is a fuel station employee. The Appellant owns a fuel station. Appellant was notified that her lease was being terminated and was extended month by month in 2019. Appellant felt that they could not afford health insurance in 2019 because she was fearful of her lease being terminated.

The Appellant did submit a Statement of Grounds for Appeal-2019 under "Other. During 2019 other circumstances such as applying the Affordability Tables in Schedule HC is inequitable".

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$24,690.00 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 2019 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2019. 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 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$146,776.00 in 2019, 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 2019 Massachusetts Schedule HC, Appellant could afford to pay \$978.50 monthly for health insurance. See 2019 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 \$689.00 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 \$978.50 for health insurance coverage because of their income. Private insurance in the market place was \$689.00 per month, which is less than they could afford. On these facts, I find that Appellant has shown that they were partially precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are partially exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **PARTIALLY ALLOWED**, and the 2019 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-499

**Appeal Decision:** Denied

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

**Hearing Date:** September 9, 2021

**Decision Date:** January 27, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 9, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed. On December 14, 2021, the record was re-opened for the Appellant to submit additional evidence by January 10, 2022. The Appellant did not submit any additional evidence, and the record was closed on January 10, 2022.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 3/21/21 Appeal (4 pages)
- Exhibit 3: 8/4/21 Hearing Notice (2 pages)
- Exhibit 4: 12/14/21 Open Record Request (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$45,933. The Appellant turned twenty-seven years old in 2020. (Exhibit 1)
2. The Appellant lived in Middlesex County in 2020. (Exhibit 1)
3. On March 28, 2021, the Appellant appealed from the assessment of a twelve-month penalty on his 2020 income tax return, checking off as the basis for his appeal, "During 2020, you 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." (Exhibit 1)
4. The Appellant did not have health insurance coverage in 2020, and the Appellant could not recall the last time he had health insurance coverage prior to 2020. (Appellant's testimony)

5. The Appellant had worked as a Union carpenter in 2019 and until late January or early February 2020, when he was laid off due to the pandemic outbreak. (Appellant’s testimony)
6. The Appellant returned to work as a carpenter in July 2020 and continued working as a carpenter through November 2020. (Appellant’s testimony)
7. In January 2020, the Appellant’s grandfather passed away, and the Appellant became the full-time caretaker for his elderly grandmother. (Appellant’s testimony)
8. The Appellant paid \$2,000 for funeral expenses for his grandfather. (Appellant’s testimony)
9. On February 2, 2020, the Appellant began working as a PCA for his grandmother, and he continued to do so through the remainder of 2020. (Appellant’s testimony; Exhibit 2)
10. The Appellant was paid about \$1,000 bi-weekly, after deductions, while working as a PCA. (Appellant’s testimony)
11. On October 5, 2020, the Appellant’s grandmother signed off with the PCA program that she would provide the required new-hire orientation to her PCA within ninety days, and the Appellant signed off that he would attend the PCA program’s New Hire Orientation within 90 days of employment. (Exhibit 2)
12. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as the Appellant’s 2020 AGI was more than \$18,735 for a family size of one.
13. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$290/monthly for health insurance coverage in 2020, based on his tax filing status and 2020 AGI.
14. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$269/monthly, based on his age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

At issue here is a twelve-month penalty that has been assessed against the Appellant. The Appellant contends that the additional expenses he took on as a result of his caring for his elderly grandmother following the death of his grandfather in January 2020 made health insurance coverage unaffordable for him in 2020. However, he has presented no evidence to support his contention at hearing or in response to an open-record request for documentary evidence of his expenses related to caring for his grandmother during 2020; and, for a list of his expenses for basic necessities in 2020.

As the Appellant could have afforded to pay up to \$290/monthly for health insurance coverage in 2020, coverage was available to the Appellant in 2020 for a monthly premium of \$269, and the Appellant has provided insufficient evidence to support his contention that he could not afford to pay this much for 2020 coverage, I deny the Appellant’s appeal.

Accordingly, the Appellant’s twelve-month penalty for 2020 shall remain a twelve-month penalty.

**PENALTY ASSESSED**

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

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-578

**Appeal Decision:** Denied

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

**Hearing Date:** October 4, 2021

**Decision Date:** January 27, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 4, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 4, 2021, for the Appellant to submit a list of his 2020 expenses for basic necessities. The Appellant did not submit any additional evidence, and the record was closed on November 4, 2021.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/12/21 Appeal (3 pages)
- Exhibit 3: 8/31/21 Hearing Notice (2 pages)
- Exhibit 4: 11/4/21 Open Record Request (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$33,643. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. The Appellant lived in Essex County in 2020. (Exhibit 1)
3. On April 10, 2021, the Appellant appealed from the assessment of a twelve-month penalty on his 2020 income tax return, checking off as the basis for his appeal, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 1)
4. The Appellant worked as a bartender for various employers during 2020. (Exhibit 2)
5. The Appellant lost his job at the start of the Covid pandemic. (Appellant's testimony)

6. The Appellant could have afforded to pay a monthly premium of \$140 for health insurance coverage during some months of 2020. (Appellant’s testimony)
7. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as the Appellant’s 2020 AGI was less than \$37,470 for a family size of one.
8. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$140/monthly for health insurance coverage in 2020, based on his tax filing status and 2020 AGI.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

At issue is the Appellant’s failure to have health insurance coverage throughout 2020. As the Appellant qualified for government-subsidized health insurance coverage in 2020, the Appellant acknowledged at hearing that he could have afforded \$140/monthly for coverage in 2020, and the Appellant did not submit any response to the open-record request for a list of his 2020 expenses for basic necessities, there is nothing in the record to support the conclusion that the Appellant could not afford health insurance coverage in 2020.

Accordingly, the Appellant’s twelve-month penalty for 2020 shall remain a twelve-month penalty.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-579

**Appeal Decision:** Denied

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

**Hearing Date:** October 4, 2021

**Decision Date:** January 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 4, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 4, 2021, for the Appellant to submit a list of his 2020 expenses for basic necessities. On November 4, 2021, the Appellant submitted additional evidence, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/10/21 Appeal (6 pages)
- Exhibit 3: 8/31/21 Hearing Notice (2 pages)
- Exhibit 4: 11/4/21 Open Record Request (1 page)
- Exhibit 5: 10/28/21 Response to Open Record Request (22 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$24,750. The Appellant turned forty-two years old in 2020. (Exhibit 1)
2. The Appellant lived in Suffolk County in 2020. (Exhibit 1)
3. On April 10, 2021, the Appellant appealed from the assessment of a six-month penalty on his 2020 income tax return, checking off as the basis for his appeal, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 1)
4. The Appellant had health insurance coverage through his employer during the first three months of 2020. (Appellant's testimony)

5. The Appellant lost his job and his health insurance coverage at the end of March 2020. (Appellant’s testimony; Exhibit 1)
6. The Appellant’s only income after March 2020 came from a weekly unemployment benefit of \$443. (Appellant’s testimony)
7. The Appellant was forced to move in August 2020, when his monthly rent went from \$700 to \$1,500. (Appellant’s testimony; Exhibit 5)
8. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance in 2020, as the Appellant’s 2020 AGI was less than \$37,470 for a family size of one.
9. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$59/monthly for health insurance coverage in 2020, based on his tax filing status and 2020 AGI.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

As the Appellant had employer-sponsored health insurance coverage during the first three months of 2020, until he lost his job and coverage due to the pandemic, the Appellant then had a three-month grace period to obtain new coverage. The issue before me is the Appellant’s failure to have health insurance coverage during the last six months of 2020.

The Appellant contends that purchasing health insurance coverage during the last six months of 2020 would have caused him a serious deprivation of basic necessities. However, the Appellant failed to provide any evidence in support of his position at hearing or in response to an open-record request that he provide a list of his 2020 expenses for basic necessities. Instead, the Appellant provided only a monthly bank statement for late in 2020 without any annotation. As a result, there is nothing in the record to support his contention that he could not afford to pay \$59/monthly for health insurance coverage during the last six months of 2020.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-580

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** October 4, 2021

**Decision Date:** January 4, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 4, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/14/21 Appeal (3 pages)
- Exhibit 3: 8/31/21 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$56,141. The Appellant turned thirty-seven years old in 2020. (Exhibit 1)
2. The Appellant lived in Suffolk County in 2020. (Exhibit 1)
3. The Appellant appealed from the assessment of a two-month penalty on his 2020 income tax return checking off "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for his appeal. (Exhibit 2)
4. The Appellant had health insurance coverage through his employer from January through July 2020. (Exhibit 1; Appellant's testimony)
5. From mid-March 2020 to July 2020, the Appellant's employer shut down operations and furloughed employees, including the Appellant, due to the pandemic. (Appellant's testimony)
6. The Appellant had expected to be returning to work later in 2020, until his employer informed him in early July 2020 that his furlough and health insurance coverage would be terminating at the end of that month. (Appellant's testimony)

7. At the end of July 2020, the Appellant lost his job and his health insurance coverage, and was unemployed for the rest of 2020. (Appellant's testimony)
8. The Appellant's 2020 monthly expenses for basic necessities included: \$2,240, rent; \$150, utilities; \$900, food/toiletries; \$120, cellphone; \$120, car gas/insurance; \$200, Internet; \$300, credit card minimum payment; and, \$200, clothing/family gifts/miscellaneous, for a total of \$4,230 /monthly, and \$50,760 for the year. (Appellant's testimony)
9. After the pandemic started, the Appellant spent over \$5,000 in 2020 helping family members who were struggling financially due to the pandemic. (Appellant's testimony)
10. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his income was more than \$37,470 for a family size of one.
11. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$374/monthly for health insurance coverage in 2020.
12. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$298/monthly, based on his age and county of residence.

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

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

As the Appellant had health insurance coverage in 2020 from January through July, the Appellant had a three-month grace period through October 2020 to obtain new coverage. At issue here is the Appellant's failure to have coverage in November and December 2020.

Although the Appellant had a few thousand dollars of income to spare after listing his 2020 expenses for basic necessities, it was not sufficient for him to feel comfortable purchasing health insurance coverage after losing his job in July 2020. In addition to his own costs for basic necessities, the Appellant assisted relatives in need due to the Covid pandemic in 2020 at an out-of-pocket cost of \$5,000. The Appellant's employer had furloughed him in March and continued his employer-sponsored coverage, until July 2020, when he was terminated from employment and lost his coverage. While the Appellant then had a three-month grace period to obtain new coverage, the Appellant had virtually no resources left to purchase health insurance coverage in November and December 2020, as he had been financially assisting relatives at a total cost of \$5,000, since the onset of the pandemic.

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

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

### **PENALTY ASSESSED**

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

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-605

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** October 18, 2021

**Decision Date:** January 5, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellants appeared at the hearing, which was held by telephone, on October 18, 2021. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 4/7/21 Appeal (4 pages)
- Exhibit 3: 9/7/21 Hearing Notice (2 pages)
- Exhibit 4: 2019 Appeal Decision (3 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants' filing status for 2020 was Married Filing Jointly with no dependents. The Appellants' federal AGI in 2020 was \$83,353. The Appellant/wife turned sixty years old in 2020. The Appellant/husband turned sixty-five years old in April 2020. (Exhibit 1)
2. The Appellants lived in Hampden County in 2020. (Exhibit 1)
3. The Appellants appealed from the assessment of a twelve-month penalty for the Appellant/wife on their 2020 income tax return checking off, "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for their appeal. (Exhibit 1)
4. The Appellants did not have health insurance coverage in 2019. (Exhibit 4; Appellants' testimony)
5. The Appellants could not afford health insurance coverage in 2019, as family coverage in the private market would have cost them a monthly premium of \$836, and they could have afforded to pay a monthly premium of no more than \$539 for family coverage in 2019. (Exhibit 4)

6. The Appellant/husband had health insurance coverage through Medicare in 2020 from April through December. (Appellant’s testimony)
7. The Appellants’ 2020 expenses for basic necessities included: \$15,255, groceries; \$672, personal care; \$656, clothing; \$169, shoes; \$768, household sundries; \$1,727, homeowner’s insurance; \$539, house repairs; \$6,132, property taxes; \$1,985, electricity; \$1,593, oil; \$2754, cable/Internet/phone; \$1,199, auto insurance; \$3,090, car m/r; \$153, AAA road service; \$83, auto excise tax; \$805, life insurance; \$1,747, Medicare premium; \$456, BC/BS Supplemental Health Insurance Premium (for Appellant/husband); \$17,387, medical/prescription drugs/dental fees & expenses; \$436, medical/dental-related mileage; \$45, bank safety deposit box; \$110, income tax prep fee; and, \$1,645, church/charities, for a total of \$59,481 for the year, and \$4,957/monthly. (Exhibit 2)
8. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant/wife did not qualify for government-subsidized health insurance in 2020, as the Appellants’ 2020 AGI was more than \$50,730 for a family size of two.
9. According to Table 3, Affordability, the Appellants could have afforded to pay up to \$555/monthly for health insurance coverage in 2020, based on their tax filing status and 2020 AGI.
10. According to Table 4, Premiums, the Appellant/wife could have purchased health insurance coverage in the private market in 2020 for \$387/monthly, based on her age and county of residence.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

The issue before me is the Appellant/wife’s failure to have health insurance coverage throughout 2020. I am not persuaded by the Appellants’ argument that purchasing health insurance coverage for the Appellant/wife would have caused a serious deprivation of basic necessities. While the Appellants offered an exhaustive list of their 2020 expenses for basic necessities, including \$17,387 out-of-pocket for medical/prescription drugs/dental fees/expenses, it still left them nearly \$24,000 of income to pay for health insurance coverage for the Appellant/wife in 2020.

The Appellants’ situation in 2020 with respect to obtaining affordable health insurance coverage had changed significantly from 2019, as the Appellant/husband now qualified for Medicare coverage. As a result, the Appellants needed to purchase only individual coverage for the Appellant/wife. While family coverage in the private market in 2019 for a monthly premium of \$836 was much more than the \$539 premium the Appellants could have afforded to pay for family coverage in 2019, the \$387/monthly premium for 2020 individual health insurance coverage for the Appellant/wife in the private market was clearly affordable for the Appellants and would not have caused the Appellants any deprivation of basic necessities.

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

**PENALTY ASSESSED**

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

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



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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20718

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

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

**Hearing Date:** November 10, 2021

**Decision Date:** December 28, 2021

### **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 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on May 1, 2021 with letter in support attached
- Exhibit 2: Appeal Information sheet Schedule HC, 2020
- Exhibit 3: Connector notice of hearing sent to Appellant, dated October 15, 2021 for November 10, 2021 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 63 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Middlesex County in 2020 (Exhibit 2, Testimony of Appellant).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$72,260. Appellant was owed child support. In 2020, she received between \$1,500 and \$2,000. Payments were sporadic (Exhibit 2, Testimony of Appellant).
4. Appellant worked for a church as an office manager in 2020. Appellant also ran special events for the church. She received a bonus when she organized these events. In 2020, the appellant's base salary was \$65,000. Before the pandemic started, the appellant earned extra for running events. Once the pandemic hit, she no longer had events to organize; she stopped receiving bonuses (Testimony of Appellant).

5. In early 2020, Appellant and her employer, the church, discussed the possibility of Appellant being given health insurance as a benefit. The church agreed to offer the coverage and was looking into plans. Once the pandemic began, the church decided it could not offer the benefit. In May, 2021, however, the church offered the coverage to the appellant and she enrolled in a plan (Testimony of Appellant).
6. Appellant had no health insurance in 2020. After it became apparent that her employer would not offer her coverage, Appellant looked into getting insurance through the Connector. Appellant felt she could not afford the premiums (Testimony of Appellant).
6. Appellant has been assessed a tax penalty for all of 2020. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$72,260 could afford to pay \$481 per month for health insurance. According to Table 4, Appellant, age 63 and living in Middlesex County, could have purchased insurance for \$432 per month. Individual coverage was affordable for the appellant in 2020 (Schedule HC for 20120 Exhibit 2).
9. According to Table 2 of Schedule HC for 2020, Appellant earning more than \$37,470 per year would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2020 (Testimony of Appellant).
11. In 2020, Appellant did not fall more than thirty days behind in her rent payments (Testimony of Appellant).
12. Appellant received shut off notices for her phone service several times in 2020 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat, and electricity-\$1,950; telephone and internet -\$315; food, household and personal care items-\$935; clothing-\$60; car insurance-\$230; gas-\$120; credit card debt-\$300. In addition, Appellant, who had two sons, fully supported one son who did not work during 2020 and sent \$200 a month to her other son who lived out of state and who lost his job and came down with COVID. The appellant also spent \$1,500 on car repairs (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” 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.

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant had no health insurance that met the Commonwealth's minimum creditable coverage standards all year. Appellant has been assessed a penalty for twelve months. Appellant has appealed the penalty. See Exhibits 1 and 2, and the testimony of the appellant which I find to be credible.

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.

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$72,260 could afford to pay \$481 per month for health insurance. According to Table 4, Appellant, age 63 and living in Middlesex County, could have purchased insurance for \$432 per month. Individual coverage was affordable for the appellant in 2020 See Schedule HC for 2020, Exhibit 2.

Appellant was not offered health insurance through employment in 2020. Appellant's employer was looking for a plan to offer the appellant, but when the pandemic hit, the employer decided not to offer the benefit. See the testimony of the appellant which I find to be credible.

Appellant was not eligible for ConnectorCare coverage. The appellant earned more than the \$37,470 income limit for an individual. See Schedule HC, Table 2 for 2020 and Exhibit 2. There is no evidence in the record that Appellant was eligible for any other government-sponsored program.

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

Appellant had the following monthly expenses for basic necessities in 2020: rent, heat, and electricity-\$1,950; telephone and internet -\$315; food, household and personal care items-\$935; clothing-\$60; car insurance-\$230; gas-\$120; credit card debt-\$300. In addition, Appellant, who had two sons, fully supported one son who did not work during 2020 and sent \$200 a month to her other son who lived out of state and who lost his job and came down with COVID. The appellant also spent \$1,500 on car repairs. See the testimony of the appellant which I find to be credible. These expenses came to more that \$4,000 a month.

Appellant's income decreased as the year went by because of the pandemic. Before the pandemic, Appellant could count on earning bonuses when she organized events for the church. Once the pandemic began, Appellant could not count on the extra earnings. She also could not count on receiving the child support owed to her. While she did receive some owed support, payments were sporadic. Appellant fully supported one of her children since he was unemployed. Once the pandemic started and her other son became ill with COVID, Appellant also sent financial support to him. See the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determine that the Appellant could not afford the cost of purchasing health insurance that met the Commonwealth's standards (at least \$432 a month) without experiencing a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e), 956 CMR 6.08(3), Table 4 of Schedule HC 2020, and the testimony of the appellant which I find to be credible. 956 CMR 6.08(3) provides that financial issues raised by the appellant on appeal may be considered when determining if a penalty should be waived.

I also note that in 2020, Appellant received several shut-off notices for her phone service. Though her service was not cut off, pursuant to 956 CMR 6.08(1)( b), receiving shut-off notices for a basic utility such as telephone is evidence of financial hardship such that health insurance is unaffordable for the appellant

Because of financial hardship as defined in 965 CMR 6.08, and other financial issues raised by the appellant, I determine that Appellant's penalty should be waived in its entirety.

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20720

**Appeal Decision :** Penalty waived in full

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

**Hearing Date:** November 10, 2021

**Decision Date:** December 22, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellants appeared at the hearing which was held by telephone on November 10, 2021. The procedures to be followed during the hearing were reviewed with the appellants. The appellants was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified. At the end of the hearing, the record was left open until December 8, 2021 to give the appellants time to submit additional evidence. A document was received from the appellants on November 23, 2021. It has been marked as an exhibit and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellants on May 5, 2021 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated October 15, 2020 for hearing on November 10, 2020
- Exhibit 4: Emails between employer and the appellant regarding health insurance dated April, 2020
- Exhibit 5: Form MA 1099-HC 2018
- Exhibit 6: Summary of Benefits and Coverage for Appellants' health plan, 2020

### **FINDINGS OF FACT:**

The record shows, and I so find:

1. Appellants were 51 and 47 years old in 2020. They filed a 2020 Massachusetts tax return jointly. They claimed 3 dependents, their children, on their return (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Essex County, MA in 2020 (Exhibit 2).
3. Appellants had a Federal Adjusted Gross Income of \$325,604 in 2020 (Testimony of Appellant, Exhibit 2).
4. One of the appellants worked for an out-of-state company. The appellant and the appellant's family were offered health insurance by the employer and Appellant opted to enroll in the plan offered for the entire family. The employer paid the entire premium for the family coverage. The plan met the Minimum Value Standard established by the

Affordable Care Act and provided Minimum Essential Coverage required by the same act. It did not meet the Commonwealth's minimum creditable coverage standards in 2020. Appellant had had the same coverage through the same job in 2018 and 2019. In 2018 and 2019, the coverage offered met the Commonwealth's standards. The appellants were not assessed a tax penalty for either year (Testimony of Appellant, Exhibits 1 attachment, 5).

5. Appellant's health insurance plan had broad coverage. In 2020, as in previous years, it had no annual maximum for covered benefits. It included coverage for in-patient hospital services, physician in-patient services, in-patient rehabilitation services, maternity and newborn care, ambulatory and out-patient surgery services, emergency services, mental health care services, substance abuse treatment, routine and preventive care, diagnostic imaging and screening procedures, laboratory services, primary care office visits, and specialty care office visits. It also had an annual deductible for their family of \$10,000 and an out-of-pocket annual maximum of \$13,200. There was no deductible for medications, emergency room care, preventive services, immunizations, and diagnosis and imaging (Exhibit 1 attachment, and Exhibit 6).

6. Appellants did not realize they had coverage in 2020 that did not meet the Commonwealth's standards. They assumed that since their earlier coverage (the same plan) had met the standards that the 2020 coverage was in compliance. They only realized the plan was not in compliance when they did their 2020 taxes (Testimony of Appellant, Exhibits 1 attachment, 4, and 5).

7. Since the appellants had insurance in 2020 that did not meet the Commonwealth's standards, the appellants have been assessed a penalty for twelve months each. Appellants have appealed this assessment (Exhibits 1 and 2, Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

Appellants had health insurance during 2020 offered by and paid for by one of their employers. The insurance, however, did not meet the Commonwealth's minimum creditable coverage standards. The appellants have been assessed a penalty for the whole year. The appellants have appealed the penalty. See Exhibit 1 and 2. The issue on appeal is whether the tax penalty should be waived, either in whole or in part.

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

To determine if the penalty should be waived in whole or in part, we must consider whether the insurance the appellants had in 2020 substantially met the Commonwealth's minimum creditable coverage standards as set out in 956 CMR 5.00 et. seq. See also 956 CMR 6.08(2)(d).

Appellants' health insurance plan had broad coverage. In 2020, it had no annual maximum for covered benefits; it included coverage for in-patient hospital services, physician in-patient services, in-patient rehabilitation services, maternity and newborn care, ambulatory and out-patient surgery services, emergency services, mental health care services, substance abuse treatment, routine and preventive care, diagnostic imaging and screening procedures, laboratory services, primary care office visits, and specialty care office visits, among other benefits. It also had an

annual deductible for there family of \$10,000 and an out-of pocket annual maximum of \$13,200. There was no deductible for medications, emergency room care, preventive services, immunizations, and diagnosis and imaging. While the deductible for a family plan was much higher than allowable under the Commonwealth's standards, in other ways, the plan substantially met the Commonwealth's standards. The plan's annual out-of-pocket maximum was well below the Commonwealth's maximum. See Exhibits 1 attachment, and 6; and 956 CMR 5.00 et. seq.

I also note that the appellants' plan was offered by an out-of-state employer. In 2018 and 2019, the plan met the Commonwealth's standards. The appellants did not know until they did their 2020 Massachusetts tax return that the plan in 2020 did not meet the standards. See the testimony of the appellant which I find to be credible and Exhibit 5.

Given that the appellant's plan substantially met the Commonwealth's standards, the appellant's penalty is waived in its entirety. Even if the plan did not substantially meet the standards, Appellants were unaware that the plan did not meet the standards until 2021 when they worked on their tax return.

Appellants should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2020 appeal. Appellants should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance.

### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20723

**Appeal Decision :** Penalty waived in full

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

**Hearing Date:** November 10, 2021

**Decision Date:** December 27, 2021

018

### **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 10, 2021. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on April 28, 2021 with letter of support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated October 15, 2020 for hearing on November 10, 2021
- Exhibit 4: Appellant's health insurance card showing coverage from January 1, 2021
- Exhibit 5: Connector and MassHealth notices sent to Appellant regarding Appellant's application for health insurance and results of application, December, 2019 and September, 2020

### **FINDINGS OF FACT:**

The record shows, and I so find:

1. Appellant was 39 years old in 2020. The appellant filed a 2020 tax return as a single individual with no dependents claimed (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Middlesex County, MA from January through July. In August, Appellant moved back to California where Appellant originally lived. Appellant left Massachusetts because the pandemic affected Appellant's employment. In April and May, the appellant spent an extended period in California also. Appellant did not indicate on his 2020 Massachusetts tax return that he was a part-year resident, even though he did not live in the Commonwealth all year. Appellant had a California license in 2020 and voted in the November election in California (Testimony of Appellant, Exhibits 1, 2).
3. Appellant had a Federal Adjusted Gross Income of \$50,212 in 2020 (Exhibit 1).
4. Appellant was an adjunct professor at three different schools in 2020. At one school, Appellant taught classes in the spring and fall semesters. At another, he taught two classes in the spring semester only. At the third, the appellant

taught during the fall semester. Many of these courses were taught on-line once schools closed down because of the pandemic. Appellant taught one course in early June. From late June through August, the appellant collected unemployment compensation because he had no work. He collected \$500 a week (Testimony of Appellant).

5. As an adjunct professor, Appellant was not offered health insurance through employment. In December, 2019, Appellant applied to the Connector for health insurance. He was denied coverage because of lack of proof of residency. In January 2021, Appellant obtained health insurance in California (Testimony of Appellant, Exhibit 5).

6. Appellant has been assessed a penalty for all of 2020. Appellant has appealed this assessment (Exhibits 1 and 2, Testimony of Appellant).

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

8. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed, and with an adjusted gross income of \$50,212 could afford to pay \$334 per month for health insurance. According to Table 4, Appellant, age 39 and living in Middlesex County, could have purchased insurance for \$298 per month. Health insurance on the individual market was affordable for Appellant in 2020 (Exhibit 2, Testimony of Appellant, Tables 3 and 4 Schedule HC 2020).

9. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the Connector Care program. (Table 2 of Schedule HC-2020, Exhibit 1).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat, electricity, and internet-\$1,650; telephone-\$50; food, household items, and personal care items-\$530; clothing and laundry-\$90; car insurance-\$80; gas-\$90; student loans-\$300. In addition, Appellant spent \$3,000 on maintenance for his car which was 20 years old, \$4,000 in back taxes, and \$1,000 to support his mother and sisters once the pandemic started. Appellant moved back to California during the pandemic. He had moving expenses of \$2,000 (to ship his belongings) and had to pay \$5,000 for a new apartment in California (security deposit, first and last month's rent).(Testimony of Appellant).

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

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

The appellant has been assessed a tax penalty for all of 2020. The appellant has appealed the penalty. See Exhibits 1 and 2. Appellant resided in Massachusetts from January through July. In August, he moved back to California where he lived before he moved to the Commonwealth. See the testimony of the appellant which I find to be credible and Exhibit 1. Since Appellant was no longer a resident of Massachusetts from August through the December, 2020, the tax penalty for these months must be waived. See Massachusetts General Laws, Chapter 111M, Section 2. The issue on appeal is whether the tax penalty for January through July should be waived, either in whole or in part.

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 Appellant experienced a financial hardship as defined in 956 CMR 6.08.

Appellant was employed as an adjunct professor at three different schools. He was not offered insurance through these positions. For part of June and all of July, Appellant was unemployed. Health insurance was not available to the appellant through employment. See the testimony of the Appellant which I find credible.

Appellant was not eligible for affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$50,212, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record to show that Appellant was eligible for any other government-sponsored coverage.

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$50,212 could afford to pay \$334 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Middlesex County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2. What is unclear is whether the coverage was available to the appellant. Appellant applied to the Connector for health insurance in December, 2019. He was denied eligibility because of a residency issue. See Exhibit 5. It may be that Appellant was asked to supply proof of residency and did not submit proof in a timely fashion.

Even if we assume that Appellant would have been eligible for affordable individual coverage through the Connector, I determine that Appellant's penalty for January through July should be waived because of financial hardship. Appellant's average monthly income before taxes was about \$4,100. If we consider his expenses for car repairs, support of his family members once the pandemic hit, payment of back taxes, and moving expenses, his remaining monthly income drops to about \$2,800. See the testimony of the appellant which I find to be credible.

Appellant had monthly expenses for basic necessities amounting to \$2,790 (rent, heat, electricity, and internet-\$1,650; telephone-\$50; food, household items, and personal care items-\$530; clothing and laundry-\$90; car insurance-\$80; gas-\$90; student loans-\$300). See the testimony of the appellant which I find to be credible. Considering these expenses and the appellant's income, Appellant had no disposable income every month (even without even considering tax deductions). If Appellant had to pay nearly \$300 a month for health insurance, he would have had a significant deficit. 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 financial hardship. See 956 CMR 6.08(e), and 6.08(3). Health insurance was, therefore, unaffordable for him.

The penalty for January through July is waived because of financial hardship. The penalty for August through December is waived because Appellant no longer resided in the Commonwealth.

Appellant should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2020 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.

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-773

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** November 10, 2021  
**Decision Date:** January 4, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on November 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit documents regarding Appellant's health insurance. Appellant submitted documents and they have been labeled as Exhibit 4. The record is now closed. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated May 12, 2021
- Exhibit 3: Correspondence from Health Connector, dated October 18, 2021
- Exhibit 4: Documents regarding Appellant's health insurance for 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 58 years old in 2020 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as Married Filing Separate with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$79,946 (Exhibit 1).
4. Appellant earned about \$6,000 in January and February and the remainder of the income was a withdrawal from Appellant's retirement account (Testimony of Appellant).
5. During January and February, Appellant worked and was covered by employer sponsored health insurance (Exhibit 1 and Testimony of Appellant).
6. Appellant made a career change and moved from the job with the intention of continuing the same work on a self-employed basis (Testimony of Appellant).
7. In March 2020, due to the Covid 19 pandemic, Appellant's field and the ability to continue the same work was eliminated (Testimony of Appellant).

8. Appellant was unemployed beginning in March 2020 and was still unemployed at the time of the hearing in November 2021 (Testimony of Appellant).
9. Appellant was not eligible for unemployment insurance (Testimony of Appellant).
10. Due to the Covid 19 crises Appellant's field of employment is unlikely to return (Testimony of Appellant).
11. After losing the employer sponsored health insurance, Appellant looked for private health insurance (Testimony of Appellant).
12. Appellant purchased health insurance that covered some services, but did not include mental health treatment, and pregnancy benefits. The plan had many limits on benefits by number of days and amount. The policy only covered a fixed dollar amount per day or stay in the hospital with the patient responsible for all other charges. Appellant's policy states that the services provided are not insurance, but is a discount medical plan (Exhibit 4 and Testimony of Appellant).
13. During 2020, Appellant struggled to pay for basic expenses, including a mortgage and utilities, a car payment, and car insurance payment. Appellant was forced to use retirement benefits to pay for all of the expenses (Testimony of Appellant).
14. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
15. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$79,946 could afford to pay \$533 per month for private insurance. According to Table 4, Appellant, who was 58 years old and lived in Middlesex county could have purchased private insurance for a cost of \$432 per month.
16. Private insurance was considered affordable for Appellant in 2020 (Schedule HC for 2020).
17. Appellant, earning more than \$37,470 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).
18. Appellant has been assessed a penalty for seven months for 2020 (Exhibit 1).
19. Appellant filed a hardship Appeal on May 12, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 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).

Appellant has been assessed a tax penalty for seven months. From March through December, 2020, Appellant was covered by a plan that did not meet the Massachusetts standards. 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. We must also consider whether the plan that Appellant had beginning in March 2020 substantially met the Massachusetts minimum creditable coverage standards and whether Appellant's circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

The health insurance purchased by Appellant in March 2020 was very limited. The policy is not an insurance policy, but a discount plan. The plan had many limits on benefits by number of days and amount. It covered a few visits, but then only paid 80% of the medical charges and Appellant was responsible for the rest. It did not provide coverage for a comprehensive set of services. It did not substantially meet the Massachusetts minimum creditable coverage standards. See 956 CMR 6.08 (2)(d).

Appellant was considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities after planning to make a career change in March 2020. Due to the Covid 19 pandemic Appellant's field was not available and Appellant was unsure of when Appellant would be employed again. Appellant struggled to pay for living expenses and was forced to use retirement benefits that Appellant will need for retirement. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2, 4 and Testimony of Appellant, which I find to be credible.

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

#### **PENALTY ASSESSED**

Number of Months Appealed: 7

Number of Months Assessed: 0

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

OR

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

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

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

#### **ADDENDUM**

**If Appellant still does not have health insurance, Appellant should contact the Health Connector at 1 877 623-6765 and HealthCare for All at 1 800 272-4232 to find out about affordable options.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-784

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 15, 2021

**Decision Date:** January 12, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 15, 2021 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Final Appeal Decision in PA14-846 dated 4/11/2016
- Ex. 4--Final Appeal Decision in PA15-1023 dated 2/23/2017
- Ex. 5—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The appellant requested an extension of the deadline for submission of documentation which was granted until December 20, 2021. The documentation was submitted prior to the second deadline and was marked as follows:

- Ex. 6—Coverage information for appellant’s 2020 health insurance plan

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 62–years-old, is single, and does not have children. In 2020, he had health insurance for the entire year. (Testimony)
2. The appellant had employer sponsored health insurance for all of 2020 which did not meet Massachusetts minimum creditable coverage standards (MCC). He has been employed by the same

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



employer since at least 2007 during which time he has mostly been enrolled in the same employer health insurance which he was aware did not comply with MCC requirements. He felt he had no other alternative since he could not afford MCC-compliant private health insurance and was not eligible for subsidized insurance through the Health Connector. For some of the years since 2007, he paid a tax penalty for not obtaining MCC insurance. For the 2014 and 2015 tax years, he filed an appeal of the tax penalty with the Health Connector. (Testimony, Exs. 3, 4)

3. The appellant was assessed a twelve-month penalty for the 2014 tax year for failure to purchase MCC insurance. He filed an appeal with the Health Connector and following a hearing, the penalty was overturned. The hearing officer found that the appellant could not afford private health insurance or employer health insurance and was not eligible for subsidized insurance because his employer offered insurance that provided minimum essential coverage (MEC). (Ex. 3)
4. The appellant was assessed a twelve-month penalty for the 2015 tax year for failure to purchase MCC insurance. He filed an appeal with the Health Connector, and following a hearing, the penalty was overturned. The hearing officer reached the same conclusion as in Finding No. 3 in determining that there was no affordable option that met MCC standards available to the appellant. (Ex. 4)
5. The appellant was enrolled in the same employer insurance plan in 2021 as in prior years. (Testimony)
6. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.  
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
7. The appellant reported an adjusted gross income of \$31,992.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Testimony, Ex. 2)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2020 1) for “other” reasons and 2) since he purchased health insurance that did not meet minimum creditable coverage standards because that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met the requirements.

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 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured 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 was enrolled in employer health insurance for all of 2020 which he knew did not comply with MCC standards. He testified that he had no other alternative because he could not afford private insurance and was not eligible for subsidized insurance through the Health Connector. He testified that he has been working for the same employer since 2007 and has mostly been enrolled in employer insurance which has never met state standards. He testified that since 2007 he has paid a penalty for failure to obtain MCC insurance for some of the years. Finally, he testified that he appealed the penalty for the 2014 and 2015 tax years and it was overturned.

The evidence provided by the appellant established that his income for 2020, \$31,992.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$31,226.00 and \$37,470.00 is deemed to be able to afford a monthly premium of \$133.30 (5.0% of \$31,992.00/12). Table 4 of the Premium Schedule indicates that a 61-year-old individual (the age of the appellant in 2020) in Hampden County (where the appellant resided in 2020) could have purchased private health insurance for \$387.00 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 2020.

Although the appellant's income was within 300% of the FPL, he would not have been eligible for subsidized insurance through the Health Connector. Since he was enrolled in employer health insurance that provided MEC, he was not eligible for Advance Premium Tax Credits under the Affordable Care act (26 CFR 1.36B-2 (a)(2)), and was therefore not eligible for subsidized insurance through the Health Connector. See 956 CMR 12.08(1)(b).

The record was left open for the appellant to submit a summary of the benefits offered under his employer's 2020 plan. He requested an extension following which he submitted some material that did not contain the requested information, but was more of a guide for employees on how to submit claims and other related matters. There was no indication in the material that the plan met MEC standards, the standard used under the Affordable Care Act (ACA). The summary of benefits was requested in order to do a side-by-side comparison with the standards required by the state and determine whether the insurance coverage was comprehensive and offered a broad range of medical benefits as defined in 956 CMR 5.03. Although that analysis could not be done, in the 2014 appeal of the tax penalty referenced in Finding No. 3, the hearing officer determined that the employer's insurance plan for that year met MEC standards. It is therefore not unreasonable to assume that the 2020 coverage also met MEC standards since the appellant testified that he has essentially been enrolled in the same coverage for many years.<sup>2</sup>

Based on the totality of the evidence, it is concluded that the appellant could not afford private health insurance and was not eligible for subsidized insurance. His only alternative was to enroll in employer insurance, even though it did not comply with MCC requirements. In reaching this conclusion, consideration was given to the fact that the appellant has been enrolled in insurance for many years, thereby demonstrating that the mandate to obtain insurance has not been lost on him. The appellant's request for a waiver from the penalty is **granted**. The

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<sup>2</sup> It is important to note that that insurance which meets MEC standards under the ACA does not necessarily meet the standards required by state MCC standards.

determination that he is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

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

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

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: PA20806

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** November 17, 2021  
**Decision Date:** January 11, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on November 17, 2021. A duly sworn interpreter was also present. 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 submitted in May 2021
- Exhibit 3: Correspondence from Health Connector dated October 18, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 25 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Worcester County, MA in 2020 (Exhibit 1).
3. Appellant had an Adjusted gross income of \$47,178 for 2020 (Testimony of Appellant).
4. Appellant's Appeal Case Information from Schedule HC 2020 shows that Appellant was uninsured for twelve months in 2020 (Exhibit 1).
5. Appellant did have coverage that met Massachusetts minimum creditable coverage standards from January through December 2020 (Exhibit 2 and Testimony of Appellant).
6. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
7. Appellant filed an appeal in May 2021 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority.

Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. Appellant was properly insured by a Health Insurance Plan that met Massachusetts Creditable Coverage Standards for the entire year of 2020. See Exhibit 2 and Testimony of Appellant.

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

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-812

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 17, 2021

**Decision Date:** January 7, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on November 17, 2021. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Schedule HC for Healthcare from DOR

Exhibit 2: Notice of Appeal and supporting documents dated May 25, 2021

Exhibit 3: Correspondence form Health Connector dated October 18, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 33 and 34 years old in 2020. Appellants filed a Massachusetts 2020 tax return as married filing jointly with no dependents claimed (Exhibit 1).
2. Appellants resided in Worcester County during 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellants' Adjusted Gross Income for 2020 was \$201,104 (Exhibit 1).
4. Appellant worked for a company whose main office is in North Carolina (Testimony of Appellant).
5. In early 2021, Appellant was sent a MA 1099-HC form from the employer sponsored health insurance plan showing that Appellant was covered by health insurance that met Massachusetts Creditable Coverage Standards (Exhibit 2 and Testimony of Appellant).
6. After Appellant received the MA 1099-HC form, Appellant received a Corrected 2020 MA 1099-HC form stating that the health insurance did not meet the Massachusetts Credible Coverage Standards (Exhibit 2 and Testimony of Appellant).

7. In 2021, Appellant was informed by the employer that the reason for the amended 1099HC form was that the North Carolina health insurance did not meet the Massachusetts standards because the plan did not provide maternity care for dependents (Testimony of Appellant).
8. Appellants were married in September 2020 (Exhibit 4 and Testimony of Appellant).
9. In September 2020, Appellant began coverage under a health insurance plan that met the Massachusetts standards (Exhibit 1 and Testimony of Appellant).
10. Appellant's employer did not notify Appellant until 2021 that the health insurance did not meet the Massachusetts creditable coverage standards (Exhibit 2 and Testimony of Appellant).
11. Appellant has been assessed a penalty for six months for 2020. Appellant Spouse has not been assessed a penalty (Exhibit 2).
12. Appellants filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on May 25, 2021 (Exhibit 2).

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

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 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.

During January through September 2020, Appellant was covered by employer sponsored health insurance that did not meet the Massachusetts standards. Appellant received a MA1099-HC form from Appellant's employer in early 2021. This was followed by an amended MA1099-HC form indicating that the insurance did not meet the Massachusetts standards. Appellant and Appellant's employer did not become aware that the insurance did not meet the Massachusetts standards until 2021. The health insurance was comprehensive and met most of the standards, but did not provide maternity care to dependents. Appellant began coverage under a plan that met Massachusetts standards in October 2021. Given these circumstances, I will waive the penalty in full. See Exhibits 1 and 2 and Testimony of Appellant, which I find to be credible.

### **PENALTY ASSESSED**

Number of Months Appealed: 6/0

Number of Months Assessed: 6/0

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

OR

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

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

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



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-814

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 17, 2021

**Decision Date:** January 14, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on November 17, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further information about Appellant's insurance coverage in 2020. Appellant submitted documents which have been marked as Exhibit 4. The record is now closed.

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 sent in April 2021

Exhibit 3: Correspondence from Health Connector dated October 18, 2021

Exhibit 4: Documents regarding Appellant's health insurance in 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 29 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Middlesex County during 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2020 was \$60,801 (Exhibit 2).
4. Appellant had two different health insurance plans during 2020 (Testimony of Appellant).
5. Appellant had difficulty entering the information for both health insurance plans when Appellant prepared the taxes (Testimony of Appellant).
6. Appellant was enrolled in government subsidized health insurance in the early part of the year and in employer sponsored health insurance later in the year (Testimony of Appellant).
7. Appellant began a new job and was enrolled in employer sponsored health insurance beginning in May or June of 2020 (Testimony of Appellant).

8. Appellant's employer was based out of state (Exhibit 4 and Testimony of Appellant).
9. Appellant provided some but not all of the information needed to make a determination as to whether the policy substantially met the Massachusetts standards (Exhibit 4).
10. The information provided by Appellant shows that the policy covers a comprehensive set of services. The information submitted indicates that there are no caps on benefits or prescription benefits (Exhibit 4).
11. Appellant's employer sponsored health insurance had a deductible of \$6,000; however, Appellant's employer paid a large share of the deductible (Testimony of Appellant).
12. Appellant has been assessed a penalty for five months for 2020 (Exhibit 2).
13. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty in April 2021(Exhibits 3 and 4).

## **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 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 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.

During January through April 2020, Appellant was covered by government subsidized health insurance. Appellant began a new job in May and began coverage under employer sponsored health insurance in May or June. The issue to be decided is whether the employer sponsored health insurance policy substantially met the Massachusetts minimum creditable coverage standards and whether Appellant's circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

Appellant's insurance in the latter part of the year was employer sponsored health insurance. Appellant's employer was out of state and Appellant was covered by an insurance policy from an out of state health insurance company. Appellant purchased the health insurance offered through the employer. Appellant submitted information regarding the details of the coverage so that a determination could be made as to whether the policy substantially met the Massachusetts standards. The policy covers a comprehensive set of services. There are no caps on benefits or prescription benefits. There is an individual deductible of \$6,000 and Appellant's employer pays a large share of the deductible. There is no information about some details of the policy and whether the plan covers all services to all of those covered. See Exhibits 2, 4 and Testimony of Appellant, which I find to be credible.

Given these circumstances, I will waive the penalty for 2020.

**However, Appellant is advised that this decision is based upon the facts as I have found them for 2020 and should not assume that a similar decision will be made if Appellant fails to have health insurance that meets Massachusetts standards in the future.**

**PENALTY ASSESSED**

Number of Months Appealed: 5

Number of Months Assessed: 0

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

OR

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

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

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

**ADDENDUM**

**Appellant is encouraged to immediately contact the employer to ascertain whether the policy meets the Massachusetts creditable coverage standards. If Appellant does not have access to employer sponsored health insurance that meets the Massachusetts standards, Appellant should contact the Health Connector at 1 877 623-6765 to find out about plans that do meet the standards.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-815

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** November 17, 2021  
**Decision Date:** January 14, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants appeared at the hearing, which was held by telephone, on November 17, 2021. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellants. Appellants testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated May 19, 2021
- Exhibit 3: Correspondence form Health Connector dated October 18, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 43 and 45 years old in 2020. Appellants filed a Massachusetts 2020 tax return as married filing jointly with two dependents claimed (Exhibit 1).
2. Appellants resided in Middlesex County during 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellants' Adjusted Gross Income for 2020 was \$173,692 (Exhibit 1).
4. Appellant worked for a company whose main office is in another state (Testimony of Appellant).
5. Appellant's plan covered Appellant, Appellant Spouse and the parties' dependents (Exhibit 2 and Testimony of Appellants).
6. In March 2020, Appellant received a notice that although the company had been told that the policy met Minimum Creditable Coverage Standards, that the company had received a notice that the policy did not meet the MCC standards because it did not include maternity benefits for dependent children (Exhibit 2 and Testimony of Appellant).
7. The insurance plan offered comprehensive benefits that met all of the necessary coverage requirements except for maternity benefits for dependent children (Exhibit 2 and Testimony of Appellant).

8. Appellant’s employer informed the Massachusetts employees that they were going to get a new policy for 2021, but that they could not make the change in 2020 (Exhibit 2 and Testimony of Appellant).
9. Appellants have been assessed a penalty for twelve months for 2020 (Exhibit 2).
10. Appellants filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on May 19, 2021 (Exhibit 2).

**ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 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.

Appellants’ health insurance was comprehensive and met all of the Massachusetts standards, except it did not provide maternity care to dependents. The policy substantially met minimum creditable coverage standards. Appellant’s employer and Appellant did not become aware of this until March 2020 and the company was not able to change policies until 2021. Given these circumstances, I will waive the penalty in full. See 956 CMR 6.08 (2)(d) and Exhibits 1, 2 and Testimony of Appellants, which I find to be credible.

**PENALTY ASSESSED**

Number of Months Appealed: 12/0

Number of Months Assessed: 12/0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20833

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

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

**Hearing Date:** November 24, 2021

**Decision Date:** January 30, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 24, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until December 24, 2021 to give Appellant time to submit additional evidence. Documents were received from the appellant on December 21, 2021. These have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on May 17, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated October 26, 2021 for November 24, 2021 hearing
- Exhibit 4: Appellant's paystubs, January through March 19, 2020, 5pp.
- Exhibit 5: Print-outs showing Appellant's unemployment payments, received April, 2020 and later in 2020, 2pp.
- Exhibit 6: Letter from Appellant received December 21, 2021 regarding income from January through April, 2020, 1p.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 40 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$53,332 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was a ballet dancer at a dance company from 2004 until she retired in 2019. After she retired, she worked part-time, for the company until the pandemic closed things down. Appellant earned \$10,679 gross from

the part-time job. Appellant was unemployed for part of January and starting again in mid-March, 2020. She did not receive an unemployment compensation check until mid-April when she was paid \$4,732 before deductions. There was then a gap and the appellant did not receive another payment until July when she got a check for retroactive payments. In August, Appellant went back to work full-time (Testimony of Appellant, Exhibits 4-6).

5. When Appellant worked part-time, she was not offered health insurance by her employer. Once she started working full-time in August, 2020, she obtained coverage through her job (Testimony of the Appellant, Exhibit 2).
6. After Appellant was laid off because of the pandemic, she tried to get insurance through the Connector. She had trouble getting through to anyone at the Connector, and was unable to obtain coverage (Testimony of Appellant).
7. Appellant was uninsured from January through July, 2020. She was insured from August through December. The appellant has been assessed a tax penalty for four months, January through April. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$53,332 could afford to pay \$355 per month for health insurance. According to Table 4, Appellant, 40 years old and living in Suffolk County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat,-\$1,750; electricity-\$100; telephone and internet-\$240; food, household items, and personal care items-\$620; clothing and laundry-\$210; public transportation-\$100. Appellant had family in another state. She had to visit them twice in 2020, one of those times being in January (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant was uninsured from August through December, 2020, and has been assessed a 4-month penalty. Appellant is entitled to a three-month grace period without penalty prior to obtaining coverage. Appellant’s penalty for May through July is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. The appellant has appealed the four-month penalty for January through April. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$53,332 could afford to pay \$355 per month for health insurance. According to Table 4, Appellant, 40 years old and living in Suffolk County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$53,332, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had a part-time job from January through mid-March when she lost her job because of the pandemic. The appellant was unemployed until August when she was rehired at her old job, but as a full-time employee. Appellant was not offered health insurance when she worked part-time and had no access to employer-sponsored insurance when she was unemployed. See Schedule HC 2020, Table 3 and the testimony of the appellant which I find to be credible.

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

Appellant had the following expenses for basic necessities in 2020: rent, heat, -\$1,750; electricity-\$100; telephone and internet-\$240; food, household items, and personal care items-\$620; clothing and laundry-\$210; public transportation-\$100. Appellant had family in another state. She had to visit them twice in 2020, one of those times being in January. See the testimony of the appellant which I find credible.



Appellant's Federal Adjusted Gross Income in 2020 was \$53,332. However, during the months for which she has been assessed a penalty (January through April), Appellant only had a part-time job for which she earned \$10,697 gross. Appellant was laid off from her job in mid-March and did not receive any unemployment compensation until mid-April. She had no income for the month after she lost her job. Her monthly income for approximately the first four months of the year amounted to about \$2,750, not considering taxes and other payroll deductions. Her expenses amounted to about \$3,000. If Appellant purchased health insurance through the Connector for over \$300 a month (See Table 4, Schedule HC for 2020), Appellant would have had a monthly deficit of at least \$450. See Exhibits 4-6 and the testimony of the appellant which I find to be credible.

Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. Pursuant to 956 CMR 6.08 (1)(e), I determine that if the appellant purchased health insurance, the appellant would have experienced a serious deprivation of basic necessities. Affordable health insurance was not available to the appellant. Appellant's penalty is, therefore, waived in its entirety. I also note that Appellant obtained health insurance as of August 1, 2020, as soon as she obtained full-time work and health insurance as a benefit.

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20835

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

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

**Hearing Date:** November 24, 2021

**Decision Date:** January 31, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 24, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on May 19, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated October 26, 2021 for November 24, 2021 hearing
- Exhibit 4: Disconnection notice dated May 5, 2020 to Appellant from gas and electric company

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 41 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$49,491 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job for ten years before he was furloughed in December, 2019. He was unemployed until October, 2020 when Appellant obtained a new full-time job (Testimony of Appellant, Exhibit 1 attachment).
5. Once he lost his employment, Appellant collected unemployment compensation. During 2020, he collected about \$580 a week. When Appellant found a new job in October, the appellant was paid \$900 a week after deductions (Testimony of the Appellant).
6. Appellant did not have health insurance when he was unemployed. When he got a job in October, he was offered health insurance which he took. As of the date of this hearing, the appellant still had health insurance (Testimony of Appellant).

7. Appellant has been assessed a tax penalty for six month, January through June, 2020. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$49,491 could afford to pay \$313 per month for health insurance. According to Table 4, Appellant, 41 years old and living in Middlesex County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

12. Appellant fell more than thirty days behind in mortgage payments one time in 2020, either February, March, or April (Testimony of Appellant).

13. Appellant received a disconnection notice for basic utilities in May, 2020 (Testimony of Appellant, Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards from October through December, 2020. The rest of the year he was uninsured. The appellant has been assessed a penalty for six months, January through June only since Appellant is entitled to a three-month grace period prior to obtaining coverage.. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$49,491 could afford to pay \$313 per month for health insurance. According to Table 4, Appellant, 41 years old and living in Middlesex County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

In 2020, Appellant was unemployed from January through September. He had no access to employer-sponsored health insurance. See the testimony of the Appellant which I find credible, and Exhibit 1 attachment.

Appellant was ineligible for coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$49,491, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence that the appellant had access to any other government-sponsored coverage.

The appellant had no access to health insurance from January through June. Pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance, the individual is not assessed a tax penalty. In this matter, Appellant had no access to insurance through the individual market, through employment, or through a government program. Appellant's penalty is, therefore, waived.

I note that pursuant to 956 CMR 6.08(1)(a) and (b), the appellant's penalty would also be waived. Appellant once fell more than 30 days behind in his mortgage payments and once received a disconnection notice from his electricity and gas company during 2020. See the testimony of the appellant which I find to be credible and Exhibit 4, a disconnection notice.

Appellant's penalty is waived in full.

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

## **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20836

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

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

**Hearing Date:** November 24, 2021

**Decision Date:** January 24, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 24, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on May 15, 2021 with letter in support and notices from the Massachusetts Department of Revenue regarding tax penalty assessments attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated October 26, 2021 for November 24, 2021 hearing
- Exhibit 4: Final Appeal Decision for Tax Year 2019 issued August 31, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 59 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$38,531 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had a full-time job all of 2020. The appellant worked in housekeeping at a college. Appellant earned \$13.50 an hour, often working as many as 55 hours a week (Testimony of Appellant).
5. Appellant was offered health insurance by her employer. The cost was \$95 biweekly or \$205 a month. Appellant did not enroll in the coverage (Testimony of the Appellant).
6. Appellant obtained health insurance through her job as of January 1, 2021 (Testimony of Appellant, Exhibit 1).

7. Appellant was uninsured all of 2020. The appellant has has been assessed a tax penalty for twelve months. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$38,531 could afford to pay \$239 per month for health insurance. According to Table 4, Appellant, 59 years old and living in Worcester County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).

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

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat,-\$910; electricity-\$50; telephone and internet-\$355; food, household items, and personal care items-\$430; clothing and laundry-\$80; public transportation-\$20, old credit card debt-\$160. Appellant did not own a car. She either took public transportation or walked. Appellant also had to pay \$1,550 to the Commonwealth for earlier tax penalties (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant was uninsured all of 2020 and has been assessed a 12-month penalty. Appellant obtained coverage in January 1, 2021. Appellant is entitled to a three-month grace period without penalty prior to obtaining or losing coverage. Appellant's penalty for October through December is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$38,531 could afford to pay \$239 per month for health insurance. According to Table 4, Appellant, 59 years old and living in Worcester County, could have purchased insurance for \$432 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$38,531, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was employed all year. She was offered health insurance through her job. The cost would have been \$205 per month. This coverage was affordable to the appellant according to the Commonwealth's standards. See Schedule HC 2020, Table 3 and the testimony of the appellant which I find to be credible.

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

Appellant had the following expenses for basic necessities in 2020: rent, heat,-\$910; electricity-\$50; telephone and internet-\$355; food, household items, and personal care items-\$430; clothing and laundry-\$80; public transportation-\$20, old credit card debt-\$160. Appellant did not own a car. She either took public transportation or walked. Appellant also had to pay \$1,550 to the Commonwealth for earlier tax penalties. See the testimony of the appellant which I find credible.

Appellant's Federal Adjusted Gross Income in 2020 was \$38,531, or about \$3,100 a month before taxes. Her expenses amounted to about \$2,000, not counting the \$1,550 she had to pay the Commonwealth for past penalties. Considering these figures, it looks as if Appellant could have afforded to spend an additional \$239 for health insurance per month. But, Appellant's income included a significant amount of overtime pay. See Exhibit 2 and the testimony of the appellant which I find to be credible. Appellant earned as much as she did because she worked up to 55 hours a week, even during the pandemic, a time of great job insecurity. Not only could she have easily lost her job, but she also could have easily had her hours cut down. I also note that Appellant did not have any means of private transportation. She was dependent upon public transportation and walking to get to work.



Based on the facts noted above, I find that during the pandemic, health insurance was unaffordable for the appellant. Pursuant to 956 CMR 6.08 (3), I determine that Appellant's penalty should be waived in its entirety. I also note that Appellant obtained health insurance as of January 1, 2021.

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

### **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-846

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** December 9, 2020  
**Decision Date:** January 31, 2022

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 9, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated May 17, 2021
- Exhibit 3: Correspondence from Health Connector, dated November 10, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 50 years old in 2020 and resided in Hampden county (Exhibit 1).
2. Appellant filed a Massachusetts tax return in 2020 as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$34,501 (Exhibit 1).
4. Employer sponsored health insurance was available to Appellant at a cost of \$330 per month (Testimony of Appellant).
5. Appellant did not enroll in the employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant had received a Notice of Foreclosure and tried working with the bank so that Appellant could stay in the house (Testimony of Appellant).
7. Appellant was evicted from the property late in 2020 (Testimony of Appellant).
8. Appellant had a very serious fall at work and was unable to work (Testimony of Appellant).
9. Appellant received Worker's Compensation while recovering from the fall (Testimony of Appellant).
10. Appellant lost the job in late 2020 (Testimony of Appellant)
11. Appellant struggled to pay for basic expenses in 2020 (Testimony of Appellant).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

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

13. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$34,501 could afford to pay \$144 per month for private insurance. According to Table 4, Appellant, who was 50 years old and lived in Hampden county could have purchased private insurance for a cost of \$420 per month.

14. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).

15. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).

15. Appellant did not have health insurance in 2020 (Testimony of Appellant and Exhibit 1).

16. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).

17. Appellant filed a hardship Appeal on May 17, 2021 (Exhibit 2).

### **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Neither private nor employer sponsored health insurance was considered affordable to Appellant. Appellant was income eligible for government subsidized health insurance. Since the cost of employer sponsored health insurance was more than 9.86% of Appellant’s income, Appellant would not have been blocked from obtaining subsidized health insurance. See Schedule HC for 2020 Tables 2, 3, 4 and Worksheet for line 11 and 45CFR 155.305 (f)(1)(ii)(B), 26CFR 1-36B-2(c)(3)(v). Since affordable insurance was available to Appellant, we must consider whether Appellant suffered a financial hardship in 2020.

Appellant struggled to pay for basic necessities. Appellant’s home was foreclosed on and Appellant was forced to vacate the home. Appellant had a very serious fall in 2020 and could not work. Appellant also lost employment after the fall. I find that Appellant suffered a hardship and health insurance that provided minimum coverage was not affordable. See Schedule HC for 2020, 956 CMR 6.08 (1)(a), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-882

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 9, 2021

**Decision Date:** January 24, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on December 9, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

Exhibit 1: Schedule HC for Healthcare from DOR

Exhibit 2: Notice of Appeal and supporting documents, dated May 30, 2021

Exhibit 3: Correspondence from Health Connector, dated November 10, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 27 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Essex County during 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2020 was \$59,549 (Exhibit 1).
4. During 2020, Appellant's position went from full-time to part-time (Testimony of Appellant).
5. In 2020, Appellant was not eligible for employer sponsored health insurance (Testimony of Appellant).
6. Appellant purchased what Appellant was told was health insurance at a cost of \$198 per month (Exhibit 2 and Testimony of Appellant).
7. When Appellant purchased the plan, Appellant was led to believe that it was a health insurance plan (Testimony of Appellant).
8. When Appellant began submitting claims, a lot of them were rejected (Testimony of Appellant).
9. Appellant was forced to pay for a lot of medical expenses out of pocket (Testimony of Appellant).
10. Appellant later learned that the plan was not a health insurance plan but was just a discount plan (Testimony of Appellant).
11. After Appellant learned that the plan was not an insurance plan, Appellant cancelled the plan (Testimony of Appellant).

12. Appellant applied for a plan from the Health Connector, and began coverage under a Health Connector plan in early 2021 (Testimony of Appellant).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
14. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents with an adjusted gross income of \$59,549 could afford to pay \$397 per month for private insurance. According to Table 4, Appellant, aged 27, filing as single with no dependents and living in Essex County could have purchased private insurance for \$269 per month.
15. Private insurance was considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
16. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
17. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on May 30, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 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 twelve months. Appellant was covered by a plan that did not meet the Massachusetts standards. 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. We must also consider whether the plan that Appellant had beginning in 2020 substantially met the Massachusetts minimum creditable coverage standards and whether Appellant’s circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

The plan purchased by Appellant in 2020 was very limited and was actually not a health insurance plan. It did not substantially meet the Massachusetts minimum creditable coverage standards. See 956 CMR 6.08 (2)(d). Appellant was considered able to afford private health insurance. However, Appellant purchased a plan that was sold as health insurance and Appellant paid \$2,378 during 2020 for the plan, in addition to paying out of pocket for many medical expenses. When Appellant learned that the plan was only a discount plan, Appellant applied for health insurance that met the Massachusetts creditable coverage standards. Appellant began coverage on the plan that met the Massachusetts standards in January 2021.

Given these circumstances, I find that the penalty assessed against Appellant for 2020 should be waived in its entirety. See 956 CMR 6.08 (3) Schedule HC for 2020, Exhibits 1, and 2 and Testimony of Appellant which I find to be credible.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-906

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 9, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated November 12, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 31, 2021
- Exhibit 4: Written Statement of Appeal



## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-six years old and is married. Her husband is thirty-two years old. They live in Norfolk County, Massachusetts.
2. Appellant's husband is a fuel station employee. The Appellant owns a fuel station. Appellant was notified that her lease was being terminated and was extended month by month in 2019. Appellant felt that they could not afford health insurance in 2020 because she was fearful of her lease being terminated.
3. Appellant's husband did not have health insurance in 2018, 2020 and in 2021. Appellant's husband appealed his penalty in 2018 and was penalized four months.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under "Other. During 2020 other circumstances such as applying the Affordability Tables in Schedule HC is inequitable".

I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

5. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$149,148.00 was more than \$50,730.00. The monthly premium for health insurance available on the private market in Norfolk County for a 55 year old married woman was \$722.00. The tables reflect that Appellants could afford \$994.32 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's husband is a fuel station employee. The Appellant owns a fuel station. Appellant was notified that her lease was being terminated and was extended month by month in 2020. Appellant felt that they could not afford health insurance in 2019 because she was fearful of her lease being terminated.

The Appellant did submit a Statement of Grounds for Appeal-2020 under "Other. During 2020 other circumstances such as applying the Affordability Tables in Schedule HC is inequitable".

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$25,365.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2020 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$149,148.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$994.32 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$722.00 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 \$994.32 for health insurance coverage because of their income. Private insurance in the market place was \$722.00 per month, which is less than they could afford. On these facts, I find that Appellant has not shown that they were precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are not exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2020 penalty assessed is **APPROVED**.

**PENALTY ASSESSED**

Number of Months Appealed:     12     Number of Months Assessed:     12    

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-912

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 31, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Notice of Hearing dated November 12, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated June 5, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-nine years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works in a marine business. The Appellant thought he had MassHealth and his company's insurance was too expensive. He reported that he had gone back to work to MassHealth and they informed him that he would receive paperwork informing him of his payment but he never received any paperwork.
3. Appellant does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,526.00, consisting of rent \$1,000.00, cell phone \$98.00, car payment \$398.00 car insurance \$100.00. car gas \$400.00, food \$500.00, toiletries \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met the requirements" but should also have appealed under. "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$38,591.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Essex County for a 28 year old single person was \$269.00. The tables reflect that Appellant could afford \$239.58. 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 a marine business. The Appellant thought he had MassHealth and his company’s insurance was too expensive. He reported that he had gone back to work to MassHealth and they informed him that he would receive paperwork informing him of his payment but he never received any paperwork.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met the requirements” but should also have appealed under. “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums

under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$38,591.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$239.58 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$269.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-914

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** December 20, 2021

### **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 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated November 12, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 6, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-four years old and is married. He lives in Plymouth County. Appellant works in the food industry.
2. Appellant had health insurance through his company. Appellant provided proof through the submission of a 1095B of his health insurance for January 2020 through December 2020.
3. Appellant does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" Appellant had health insurance in 2020.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty.

Appellant had health insurance through his company. Appellant provided proof through the submission of a 1095B of her health insurance for January 2020 through December 2020.

The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" Appellant had health insurance for the time he lived in Massachusetts in 2020.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health

insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

On these facts, I find that Appellant has shown that he had health insurance during 2020. 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 2020 penalty assessed is **OVERTURNED**.

**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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-925

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 6, 2021

**Decision Date:** January 3, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant and their Spouse appeared at the hearing, which was held by telephone, on December 6, 2021. 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. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellants on June 3, 2021.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated December 6, 2021.
- Exhibit 5: Additional information submitted by the Appellants on December 28, 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant (Primary taxpayer) age 48 in June 2020 and their Spouse age 46 in January 2020 filed their Federal Income Tax return as a married couple with two dependents claimed (Exhibit 2).
2. The Appellants lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2020 was \$140,828 (Exhibit 2).
4. The Appellant and their Spouse had health insurance for the period of January through April but did not have health insurance for the period of May through December in tax year 2020 (Exhibit 2).
5. The Appellants have each been assessed a five-month tax penalty for 2020. The Appellants filed an appeal of the assessment in June 2021 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple, with two dependents claimed, with an annual adjusted gross income of \$140,828 could afford to pay \$939 per month for health insurance. In accordance with Table 4, the Appellants with one person, age 48, living in Middlesex County, could have purchased private insurance for \$883 per month for a family plan (Schedule HC for 2020). Private insurance was affordable for the Appellants in 2020.
8. The Appellants wrote on their Statement of Appeal that they lost their job and health insurance due to Covid and did not qualify for MassHealth (Exhibit 3).
9. The Appellants would not have been eligible for ConnectorCare because the Appellants' income of \$140,828 exceeded 300% of the federal poverty level which was \$77,250 for a household of four in 2020 (See Table 2 of Schedule HC for 2020).
10. The Appellants were asked about their monthly living expenses at the hearing and the Appellant Primary taxpayer objected to having to provide this information. The Appellant said that they lost their job and insurance during Covid and felt it better to go without health insurance and pay for medical bills out of pocket (Appellant Primary Testimony).
11. The Appellant Spouse testified that they are employed at a hair salon and the salon was closed from March through May. The business reopened with limited hours (Appellant Spouse Testimony).
12. The Appellants were asked about their monthly income for the period of May through December since their adjusted gross income was \$148,828 for tax year 2020. No testimony was offered to respond to this question.
13. The administrative record was left open until December 21, 2021. The Appellants were given the opportunity to submit additional information of their monthly expenses as well as information regarding their monthly income for the period of May through December (Exhibit 4).
14. On December 28, 2021, the Appellants submitted a list of monthly expenses and receipts totaling \$7,601. The monthly living expenses included: mortgage-\$1,774.61; taxes-\$2,000; home insurance-\$445.09; heat-\$510; electricity-\$200; cable/internet-\$250; car insurance-\$290; two car leases-\$777; trash-\$175; cell phones-\$180; food-\$800 and credit cards-\$200. The Appellants noted that they incurred additional expenses moving their hair salon business (Exhibit 5).
15. The Appellants did not submit any evidence or testimony regarding the amount of their income for the period of May-December. Based on the adjusted gross income of \$148,828 the household's average monthly income was \$11,735.66 (Exhibits 2, 5 and Testimony of the Appellants).

16. The Appellants did not submit any evidence or testimony to establish that they fell behind in their mortgage or utility payments or incurred any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Exhibits 3, 5 and Testimony of the Appellants)

## **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 Appellants did not have health insurance for the period of May through December in tax year 2020 and consequently each have been assessed a five-month penalty. The Appellants submitted a statement of grounds for this appeal in June 2021.

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 Appellants 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 Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with two dependents claimed, and an adjusted gross income of \$140,828 could afford to pay \$939 per month for health insurance. In accordance with Table 4, the Appellants with one-person age 48, living in Middlesex County, could have purchased private insurance for \$883 per month for a family plan (Schedule HC for 2020). Private insurance was affordable for the Appellants in 2020.

The Appellants report that they lost employer sponsored health insurance as of May 2020 due to Covid. The Appellants were not eligible for ConnectorCare because their income of \$140,828 exceeded 300% of the federal poverty level, which was \$77,250 for a household of four in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).

The Appellant Primary taxpayer testified that when they lost their employer sponsored health insurance they made a decision to go without insurance and pay for medical expenses rather than pay a monthly premium of \$1,200. The Appellants were asked about their income and living expenses for the period of May through December and the Appellant Primary taxpayer objected to having to provide this information. The Appellants were advised that the information was needed to evaluate a claim of financial hardship. The record was left open until December 21, 2021 to allow the Appellants to submit information regarding their income and living expenses. The Appellants submitted information of their expenses on December 28, 2021. The information was included in the record despite the late submission. The Appellants detailed monthly living expenses totaling \$7,601.70. No information was provided regarding the household’s average monthly income for the period of May through December in tax year 2020. Based on the information available, the adjusted gross income of \$148,828 is averaged to a monthly figure of \$11,735.66.

The Appellants did not submit any evidence that they were behind in their mortgage payments, received utility shut off notices or experienced a family or other emergency that resulted in an unexpected increase in expenses. The Appellants did note that they incurred expenses to move their salon business. Given the monthly living expenses of \$7,601.70 and the fact that a private insurance plan for a household of four was available at a monthly cost of \$883, the Appellants have failed to demonstrate that the cost of purchasing health insurance for the period of May through December 2020 would have caused the Appellants to experience a serious financial hardship. See 956 CMR 6.08. The five-month penalty for the Appellant Primary and Appellant Spouse are upheld.

**PENALTY ASSESSED**

Appellant Primary Taxpayer: Number of Months Appealed: 5 Number of Months Assessed: 5

Appellant Spouse: Number of Months Appealed 5 Number of Months Assessed: 5

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-945

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 21, 2021

**Decision Date:** January 25, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 21, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 48-years-old, is separated, and has adult children. She resided in Essex County, MA in 2020. She did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance for part of 2019. She has never been assessed a tax penalty for failure to obtain insurance. (Testimony)
3. The appellant was employed from January through April, 2020, as a certified nursing assistant. The employer did not offer health insurance. She left that job due to Covid concerns and was unemployed for the rest of the year. She received unemployment insurance benefits during that period. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant applied for health insurance for 2020 with MassHealth and was denied because her income was too high. She did not investigate insurance options through the Health Connector because she believed that her income would also be too high for any of their plans. (Testimony)
5. The appellant investigated her eligibility for health insurance for 2021 through the Health Connector, and was advised that she was not eligible. It is not known on what basis she was determined ineligible. She got a job in 2021 and enrolled in employer health insurance in June, 2021 for the rest of the year. (Testimony)
6. The appellant reported an adjusted gross income of \$30,522.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. From January through April, 2020, the appellant had regular monthly expenses of approximately \$1405.00 for rent (\$800.00); heat (\$100.00); electricity (\$75.00); cable and internet service (\$130.00); transportation by taxi to and from work (\$100.00); and food (\$200.00). From May through December, 2020, she had regular monthly expenses of \$1305.00 because she was unemployed and no longer taking cabs to and from work. (Testimony)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Massachusetts General Laws c. 111M, section 2, also known as the “individual mandate”, requires every adult resident of the state to obtain health insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that the last time she had health insurance was for part of 2019. She testified that she was employed from January through April, 2020, after which she left due to Covid concerns. She testified that no employer insurance was available during those months. She testified that she investigated her eligibility for insurance for 2020 through MassHealth and was denied because her income was too high. She testified that she did not investigate her eligibility for insurance through the Health Connector because she also believed that she would not be eligible due to her income. She testified that she looked into insurance through the Connector for 2021 and was denied eligibility. Finally, she testified that she returned to work in 2021 and enrolled in employer health insurance in June, 2021 for the remainder of the year.

The evidence provided by the appellant established that her income for 2020, \$30,522.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$24,981.00 and \$31,225.00 is deemed to be able to afford a monthly premium of \$106.82 (4.20% of \$30,522.00/12). Table 4 of the Premium Schedule indicates that a 47-year-old individual (the age of the appellant in 2020) in Essex County (where the appellant resided in 2020) could have purchased private health insurance for \$361.00 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 2020.

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 she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$106.82 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been available to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2020, from January through April, she incurred basic monthly expenses of approximately \$1405.00, and from June through December, her basic monthly expenses were \$1305.00. Those expenses were less than her regular monthly pre-tax income of approximately \$2544.00 thereby making a subsidized health insurance premium of \$106.82/month seemingly manageable. While it is recognized that a difference between income and expenses of approximately \$1100.00 is not a panacea, it does not appear on its face that the payment of \$106.82/month for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded subsidized health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived in order to mitigate a harsh result during a year with unprecedented and historic challenges. Additionally, it is noted that the appellant's period of uninsurance was bookended by two years in which she was partially enrolled in insurance, thereby demonstrating that the mandate to purchase insurance was not lost on her.

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to

you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant is advised not to rely on a similar extension of leniency should she be assessed and appeal a tax penalty for failure to obtain health insurance in the future.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-946

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 21, 2021

**Decision Date:** January 26, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 21, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 24-years-old, is single, and does not have children. In 2020, he resided in Norfolk County, MA. He had minimum creditable coverage (MCC) health insurance for the months of January through April, 2020. (Testimony, Ex. 2)
2. The appellant was employed from January through April, 2020, at which time he was laid off from his position. During that period, he had employer provided health insurance. (Testimony, Ex. 2)
3. Following his job separation, the appellant received unemployment insurance benefits for the remainder of the year. He did not investigate his eligibility for insurance through the Health Connector as he did not believe that he could afford to pay a premium at any price due to his monthly expenses. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant remained unemployed in 2021 and did not enroll in health insurance. He was hoping to find a job with employer health insurance which deterred him from considering insurance through another source. (Testimony)
5. The appellant lived with his girlfriend in 2020. She graduated from college during the year and was unable to find a job which left him responsible for covering all the household expenses. (Testimony, Ex. 1)
6. The appellant was repaying two student loans during 2020 and was unable to get either one of them deferred. He paid \$699.00/month for one loan and \$317.00/month for the second loan. (Testimony, Ex. 1)
7. The appellant reported an adjusted gross income of \$56,161.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. In 2020, the appellant had regular monthly expenses of approximately \$2503.00 for his rent (\$1500.00), heat (\$72.00), electricity (\$50.00), cable and internet package (\$95.00), cell phone (\$40.00), automobile loan (\$230.00), automobile insurance (\$166.00), gasoline (\$100.00), and food (\$250.00). In addition, the appellant paid \$1016.00/month for two student loans. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

Massachusetts General Laws c. 111M, section 2, also known as the “individual mandate”, requires every adult resident of the state to obtain health insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because 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 was laid off from his job and had to cover all the living expenses because his girlfriend had graduated from college during the year and was unable to find a job. He further stated that he could not have afforded a monthly premium for health insurance due to the very large monthly payments he made on his student loans.

The appellant did not have insurance from May through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for eight months, he was assessed and is appealing a penalty of five 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 from January through April after which he was laid off from his position. He testified that he did not investigate health insurance options because he had

very high monthly expenses and did not believe that he could afford to cover a monthly premium for insurance. He testified that he lived with his girlfriend and was responsible for all of the household expenses because she had recently graduated from college and could not find a job. Finally, he testified that he did not enroll in insurance for 2021 because he was hoping to get a job with employer provided insurance.

The evidence provided by the appellant established that his income for 2020, \$56,161.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$374.41 (8.00% of \$56,161.00/12). Table 4 of the Premium Schedule indicates that a 23-year-old individual (the age of the appellant in 2020) in Norfolk County (where the appellant resided in 2020) could have purchased private health insurance for \$269.00 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 2020.

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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$3519.00, including his student loans. Although those expenses were less than his regular monthly pre-tax income of approximately \$4680.00, the difference of \$1161.00 between income and expenses was an inadequate cushion to cover a monthly premium of \$269.00 for private health insurance as well as unanticipated 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).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   5  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-962

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 27, 2021

**Decision Date:** January 17, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 27, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated November 16, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 14, 2021
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is single. He lives in Hampshire County, Massachusetts.
2. Appellant worked in a sports business. Appellant had health insurance through April 2020 until he was laid off. Appellant's company went bankrupt in June 2020. Appellant's company paid unemployment taxes to New Hampshire rather than Massachusetts. Appellant was not able to clear up this mistake until late October 2020, so he did not have any income for several months.
3. Appellant does have health insurance in 2021, acquired in August when he obtained employment.
4. The Appellant's monthly expenses totaled \$3,827.00, consisting of rent \$1,000.00, heat & light \$50.00, internet & cable \$150.00, cell phone \$70.00, car payment \$167.00, car insurance \$140.00, car gas \$200.00, food \$500.00, credit card \$1,000.00, clothing \$100.00, toiletries \$100.00, entertainment \$50.00, student loan \$3000.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities." I will hear the the appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$22,987.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Hampshire County for a 29 year old

single person was \$241.00. The tables reflect that Appellant could afford \$55.55. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable” but should also have appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities.” I will hear the the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$22,957.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$55.55 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$241.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Appellant worked in a sports business. Appellant had health insurance through April 2020 until he was laid off. Appellant’s company went bankrupt in June 2020. Appellant’s company paid unemployment taxes to New Hampshire rather than Massachusetts. Appellant was not able to clear up this mistake until late October 2020, so he did not have any income for several months.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   5        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-964

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 27, 2021

**Decision Date:** January 17, 2022

## **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

## **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 27 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Notice of Hearing dated November 16, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated June 15, 2021

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-four years old and is single. She lives in Hampshire County, Massachusetts. Appellant is self-employed as a bookkeeper.
2. Appellant became self-employed in January 2020 and had very few customers. Due to a lack of income Appellant was not able to obtain health insurance until August 2020.
3. Appellant does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,639.00, consisting of taxes \$292.00, homeowners insurance \$67.00, internet & cable \$100.00, cell phone \$80.00, car insurance \$50.00, car gas \$120.00, food \$450.00, credit card \$1,330.00, clothing \$150.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities." I will hear the appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of 28,258.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Hampshire County for a 53 year-old single person was \$376.00. The tables reflect that Appellant could afford \$98.90 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 became self-employed in January 2020 and had very few customers. Due to a lack of income Appellant was not able to obtain health insurance until August 2020.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities." I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$28,258.00 in 2020, and Appellant's filing status was single. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$98.90 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$379.00 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 \$98.90 for health insurance coverage because of her income. Private insurance in the market place was \$379.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   4        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-995

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 3, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 18, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on June 17, 2021, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 36 in March 2020, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant filed as a full year Massachusetts resident living in Suffolk County in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$34,784 (Exhibit 2).
4. The Appellant but did not have health insurance for any months in tax year 2020 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in June 2021 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$34,784 could afford to pay \$145 per month for health insurance. In accordance with Table 4, the Appellant, age 36, living in Suffolk County, could have purchased private insurance for \$298 per month for a single plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant.
8. The Appellant was self-employed in 2020 and did not have access to affordable employer sponsored health insurance. The Appellant was eligible for ConnectorCare because the Appellant's income was less than 300% of the federal poverty level, which was \$37,470 for a single person in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
9. The Appellant testified that averaging their annual income does not adequately reflect their financial circumstances for tax year 2020. The Appellant testified that they traveled out of the country in February 2020 and because of Covid restrictions was unable to return until August. The Appellant said that they are self employed and was only able to draw \$1,500 monthly to pay for their apartment of \$800 in Massachusetts as well as the utility expenses. The Appellant said that the rest of the income was used to pay for living expenses and food while overseas. The Appellant said that they got behind in their utility payments and received a shut off notice from Ever Source on April 7, 2020 (Exhibit 3 and Appellant Testimony).
10. When asked about their annual income, the Appellant acknowledged that most of the income was earned during the period of August through December and the Appellant said that they could have afforded to pay for health insurance during that period but did not attempt to enroll in any program during this period (Appellant Testimony).
11. I take administrative notice of the fact that the dates of Open Enrollment for tax year 2020 were November 1, 2020 through January 23, 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L.c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant did not have health insurance for any months of tax year 2020 and has consequently been assessed a twelve-month tax penalty. The Appellant filed an appeal of the tax penalty alleging the penalty should not be applied in this case due to financial hardship and other circumstances.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$34,784 could afford to pay \$145 per month for health insurance. In accordance with Table 4, the Appellant, age 36 living in Suffolk County, could have purchased private insurance for \$298 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored health insurance in tax year 2020. The Appellant was financially eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$34,784 was less than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020.

The Appellant testified that they traveled out of the country in February 2020 expecting to return after a short visit. Due to the Covid-19 restrictions, the Appellant was unable to return to Massachusetts until August. The Appellant explained that they are self-employed and could only afford to draw monthly income of \$1,500 for the period of February through August. The Appellant said that they used the money to pay their Massachusetts rent of \$800 and their utility bills. The Appellant said that they struggled to pay the bills to maintain their apartment in Massachusetts while also paying for living expenses overseas. The Appellant received a utility shut off notice on April 7, 2020. 956 CMR 6.08(1)(b). Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant to experience a substantial financial hardship for the period of January through August 2020.

The Appellant returned to Massachusetts in August and resumed their usual employment. The Appellant acknowledged that they likely could have afforded to pay a monthly ConnectorCare health insurance premium for the period of September through December but did not make any attempt to obtain health insurance.

Private insurance was not affordable to the Appellant in tax year 2020 and the Appellant did not have access to employer sponsored insurance in tax year 2020. Due to Open Enrollment restrictions, the Appellant would not have been eligible for ConnectorCare for the period of September through December in tax year 2020. 45 CFR § 155 and 956 CMR 12.10(5). Because of this, the penalty for this four-month period must also be waived. See Massachusetts General Laws, Chapter 111M, Section 2.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance for all months as required.

**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 you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-996

**Appeal Decision:** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 20, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 18, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on June 18, 2021.
- Exhibit 4: Final Appeal Decision of 2015 Tax Penalty dated November 12, 2016.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated December 17, 2021.
- Exhibit 5: Additional information submitted by the Health Connector dated December 27, 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 54 in November 2020, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$69,116 (Exhibit 2).
4. According to their schedule HC, the Appellant did not have insurance that met Massachusetts minimum creditable coverage requirements (MCC) for any months in tax year 2020 (Exhibits 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in June 2021 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$69,116 could afford to pay \$461 per month for health insurance. In accordance with Table 4, the Appellant, age 54, living in Middlesex County, could have purchased private insurance for \$420 per month for a plan (Schedule HC for 2020). Private insurance was affordable for the Appellant in 2020.
8. The Appellant did not have access to employer sponsored health insurance. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$69,116 was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
9. The Appellant submitted documentation verifying that they enrolled in a Strata Health Group Alliance for Shared Health program effective November 1, 2020 (Exhibit 4).
10. The Appellant testified that they researched a private health plan but the lowest plan they found had a monthly premium of \$450. The Appellant said that with their monthly expenses they could not afford to pay that. The Appellant said they heard about the healthcare sharing program and enrolled November 1, 2020, paying a monthly premium of \$250 (Appellant Testimony).
11. The Appellant's monthly living expenses of \$3,688 included: rent-\$1,225; heat-\$300; electricity-\$300; car loan-\$600; car insurance-\$125; gasoline \$220; food-\$450; telephone-\$80; cable-\$200 and laundry-\$100 and chiropractic services of \$88. The Appellant testified that they are self employed doing real estate appraisals and pay \$384 for work expenses including: MLS (multi list) access-\$134 and software licensing \$250. The Appellant indicated that they spend \$200 monthly for clothing and \$120 for haircuts. The Appellant also said that spend \$700 monthly for a motorcycle payment and insurance and \$100 monthly for their dog. Finally, the Appellant testified that they are under a court order to pay \$1,200 a year for a car they no longer own. For the months of November and December 2020 the Appellant paid a \$250 fee for the Alliance for Shared Health program (Appellant Testimony).
12. The Appellant was advised that private Shared Health groups must meet certain requirements to meet Massachusetts Minimum Creditable Coverage (MCC) standards. The Appellant testified that they were not aware of that and joined the group thinking they complied with Massachusetts requirements (Appellant Testimony).
13. The record was left open to allow the Health Connector to determine if the Strata Health Group Alliance for Shared Health program is among the programs that meet MCC standards (Exhibit 4).
14. On December 27, 2021, Health Connector verified that Strata Health Group Alliance for Shared Health program does not meet MCC standards. Health Connector pointed out that the group's web

site states under Massachusetts, “The Plan is not Insurance Coverage and does not meet the minimum creditable coverage requirements under M.G.L. c. 111M and 956 CMR 5.00” (Exhibit 5).

15. Health Connector’s response was forwarded to the Appellant. The record was left open until January 18, 2022, to allow the Appellant to submit a written response (Exhibits 4, 5).
16. No additional information was submitted by the Appellant 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.

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 enrolled in a Healthcare Sharing Ministry program effective November 1, 2020. These types of programs including the Strata Health Group Alliance for Shared Health are required to meet certain criteria including reporting annually to the Health Connector information regarding membership, operations, and finances. 956 CMR 5,03(3)(d), M.G.L.111M. Health Connector verified that this program does not meet MCC standards and discloses this fact on its website.

The Appellant did not have health insurance that met MCC requirements for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. In addition, the Appellant testified that they were unaware that their health plan did not meet MCC requirements. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$69,116 could afford to pay \$461 per month for health insurance. According to Table 4, the Appellant, age 54, living in Middlesex County, could have purchased a private insurance plan for \$420 month. See Schedule HC for 2020. Private insurance was affordable for the Appellant in tax year 2020.



The Appellant testified that they are self-employed. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08.

The Appellant explained that they looked into purchasing health insurance at the beginning of 2020 but could not afford the premium quoted of \$450. The Appellant testified to substantial monthly living and business expenses of \$4,072. In addition, the Appellant identified a total of \$1,100 for motorcycle, pet, clothing, and haircare expenses as well as a court ordered payment of \$1,200 annually for a vehicle they no longer own. For the months of November and December the Appellant attempted to comply with the Massachusetts healthcare mandate and paid a monthly premium of \$250 for the Alliance for Shared Health group program.

While some of the expenses identified by the Appellant are not necessary living expenses, given the record as a whole, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance meeting Massachusetts MCC requirements.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_12\_\_\_\_      Number of Months Assessed: \_\_0\_\_\_\_

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:      Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-998

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 3, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant and their Spouse appeared at the hearing, which was held by telephone, on December 17, 2021. 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. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 18, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on June 17, 2021, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant Primary taxpayer, age 31 in November, 2020 and their Spouse, age 48 in January 2020 filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2020 was \$49,369 (Exhibit 2).
4. The Appellants did not have insurance for any months in tax year 2020 (Exhibit 2 and Appellant Testimony).
5. The Appellants have each been assessed a twelve-month tax penalty for 2020. The Appellants filed an appeal of the assessment in June 2021 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$49,369 could afford to pay \$313 per month for health insurance. In accordance with Table 4, the Appellants with one partner aged 48, living in Middlesex County, could have purchased private insurance for \$722 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellants in 2020.
8. The Appellant testified that neither household member had access to affordable employer sponsored health insurance in 2020. The Appellants would have been eligible for ConnectorCare coverage in 2020 because the Appellants' income was less than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant Spouse testified that they lost their job in tax year 2019 and were unemployed for all of tax year 2020 (Spouse Testimony).
10. The Appellant testified that they were employed by Uber while a student pilot in tax year 2020. Once the pandemic hit the Appellant said that their income dropped substantially because people were staying home. The Appellant said that their Spouse has various health problems that require daily medication. The Appellant said that they went online and tried to enroll in an insurance plan out of California but it ended up this plan did not cover the medications. The Appellant said that they think they enrolled for April through July but have no information on the plan or proof of enrollment (Appellant Testimony).
11. The Appellants' monthly living expenses of \$4,696 included: rent-\$1,829; electricity-\$80; telephones-\$250; food-\$1,083; medication \$200; EZ Pass-\$200; car insurance-\$200; car payment-\$487; gasoline-\$217 and cable-\$150. The Appellant testified that their food bill is high because their Spouse requires a special diet due to health problems. The Appellant testified that they struggled to meet their living expenses in tax year 2020 and got behind in their rent. The Appellant's credible testimony is supported by various Housing Court documents including a Notice of Eviction dated November 6, 2020 (Exhibit 3 and Appellant Testimony).
12. The Appellant testified that in addition to living expenses they paid \$3,000 for pilot training tuition (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 and their Spouse did not have health insurance for any months of tax year 2020 and consequently each has been assessed a twelve-month penalty. The Appellants filed an appeal in June 2021 citing financial hardship as the reason for not having health insurance.

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 Appellants 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 Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$49,369 could afford to pay \$313 per month for health insurance. According to Table 4, the Appellants with one partner aged 48, living in Middlesex County, could have purchased a private insurance plan for \$722 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellants in tax year 2020.

The Appellants did not have access to employer sponsored health insurance in tax year 2020. The Appellants would have been eligible for ConnectorCare coverage based upon the Appellants’ income that was less than 300% of the federal poverty level which was \$50,730 for their household of two. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellants in 2020, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant Spouse was unemployed for all of tax year 2020. The Appellant was employed as an Uber driver while also attending a pilot training school. Due to the pandemic the Appellant’s income fluctuated a great deal. The Appellants identified monthly living expenses that in fact exceeded their income. The Appellants provided documentation verifying that they were unable to pay their rent and received an eviction notice in early November 2020. The Appellants have demonstrated that the cost of purchasing health insurance would have caused the Appellants to experience a significant financial hardship. The twelve-month penalty for the Appellant and their Spouse are both waived. See 956 CMR 6.08(1)(a).

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellants 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**

Appellant: Number of Months Appealed:   12   Number of Months Assessed:   0  

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 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-999

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 17, 2021

**Decision Date:** January 3, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 18, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on June 16, 2021, with an attachment.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 38 in October, 2020 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$31,790 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in June 2021 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$31,790 could afford to pay \$132 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Suffolk County, could have purchased private insurance for \$298 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.
8. The Appellant was employed for the first three months of tax year 2020. Their employer offered health insurance but the Appellant said it cost was \$200 and they could not pay that. The cost of the insurance was in fact more than the \$132 deemed affordable for the Appellant under Table 3 of Schedule HC for 2020 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the federal poverty level, which was \$34,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
10. The Appellant testified that they were employed at a restaurant for the first two months of 2020 but due to Covid-19 the restaurant closed in March. The Appellant said that they remained unemployed through the rest of 2020 and their only source of income was unemployment compensation (Appellant Testimony).
11. The Appellant's 2020 monthly living expenses of \$2,128 included: rent, with heat and electricity-\$1,200; telephone-\$60; T-pass-\$90; internet-\$128 and food-\$650. The Appellant testified that they struggled to meet their living expenses with limited income and could not afford to pay a monthly health insurance premium. I found the Appellant's testimony credible (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies See G.L. C. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant did not have health insurance for any months of tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal in June 2021 and testified at the hearing that the penalty should not apply in this case because of financial hardship.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$31,790 could afford to pay \$132 per month for health insurance. According to Table 4, the Appellant, age 38, living in Suffolk County, could have purchased a private insurance plan for \$298 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellant in tax year 2020.

The Appellant did not have access to affordable employer sponsored health insurance in tax year 2020. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they were employed by a restaurant for the first weeks of tax year 2020. The restaurant closed in March 2020 due to the pandemic and the Appellant was unemployed for the remainder of tax year 2020. The Appellant testified to substantial monthly living expenses and said that they struggled to meet their monthly living expenses with unemployment compensation as their only source of income. The Appellant has demonstrated that the cost of purchasing health insurance 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).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_12\_\_\_\_      Number of Months Assessed: \_\_0\_\_\_\_

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:      Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1181

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** December 9, 2021  
**Decision Date:** January 28, 2022

### AUTHORITY

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 9, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated May 17, 2021
- Exhibit 3: Correspondence from Health Connector, dated November 10, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 49 years old in 2019 and resided in Hampden county (Exhibit 1).
3. Appellant filed a Massachusetts tax return in 2019 as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2019 of \$37,679 (Exhibit 1).
5. Appellant was covered by health insurance in January, February and March of 2019 (Exhibit 1 and Testimony of Appellant).
6. Appellant was very behind in mortgage payments, and received a Notice of Foreclosure on Appellant's home (Exhibit 2 and Testimony of Appellant).
7. Appellant tried to work with the bank to avoid foreclosure (Testimony of Appellant).
8. Appellant struggled to pay for basic expenses (Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents claimed with an adjusted gross income of \$37,679 could afford to pay \$234 per month for private insurance. According to Table 4,

Appellant, who was 49 years old and lived in Hampden county could have purchased private insurance for a cost of \$350 per month.

11. Private insurance was not considered affordable for Appellant in 2019 (Schedule HC for 2019).
12. Appellant, earning more than \$36,420 would not have been income eligible for government subsidized health insurance (Schedule HC for 2019).
13. Appellant did not have health insurance from April through December 2019 (Testimony of Appellant and Exhibit 1).
14. Appellant has been assessed a penalty for six months for 2019 (Exhibit 1).
15. Appellant filed a hardship Appeal on May 17, 2021 (Exhibit 2).

### **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for six months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant was not income eligible for subsidized health insurance. Additionally, private health insurance was not considered affordable for Appellant.

I find that affordable health insurance was not available to Appellant in 2019 and that the penalty assessed against Appellant for 2019 should be waived in its entirety.

### **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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2019.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1022

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** December 30, 2021

**Decision Date:** January 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on December 30, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 19, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated June 15, 2021.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.
- Exhibit 5: Final Appeal Decision of 2019 Tax Penalty dated November 24, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 34 in November 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$41,017 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in June, 2021 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$41,017 could afford to pay \$255 per month for health insurance. In accordance with Table 4, the Appellant, age 34, living in Suffolk County, could have purchased private insurance for \$288 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant had no access to employer sponsored health insurance in 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified to significant monthly living expenses including rent of \$2,080. The Appellant said that they were unable to meet their monthly living expenses in 2020 and received an eviction notice in February 2021. The Appellant's credible testimony was supported by a copy of a Notice to Quit issued to the Appellant on February 24, 2021 (Exhibit 4 and Appellant Testimony).
10. In tax year 2020 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-2020 (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.

The Appellant filed their 2020 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$41,017 could afford to pay \$255 per month for health insurance. In accordance with Table 4, the Appellant, age 34 living in Suffolk County, could have purchased private insurance for \$288 per month (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored insurance in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$41,017 was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020.

The Appellant had no affordable health insurance available to them in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty 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 2020.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:   12              Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1030

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 3, 2022

**Decision Date:** January 18, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 3, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated December 9, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 14, 2022
- Exhibit 4: Writtem Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-six years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant worked in a marine business. The company he worked for did offer health insurance in 2020 but he thought the premium was too high. Appellant had the same problem in 2019, which he appealed. Appellant moved to Massachusetts in late 2019 from South Carolina.
3. Appellant did have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,283.00, consisting of rent \$800.00, cell phone \$53.00, internet and cable \$50.00, transportation \$150.00, food \$450.00, credit card \$100.00 clothing \$50.00, entertainment \$400.00 toiletries \$30.00, child support \$200.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable." But should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities." I will hear the Appellant's appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$35,000.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Norfolk County for a 55 year old single person was \$432.00. The tables reflect that Appellant could afford \$145.83. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)



## ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable.” But should also have appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities.” I will hear the Appellant’s appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$35,000.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$145.83 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$432.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Appellant worked in a marine business. The company he worked for did offer health insurance in 2020 but thought the premium was too high. Appellant had the same problem in 2019, which he appealed. Appellant moved to Massachusetts in late 2019 from South Carolina.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1032

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 3, 2022

**Decision Date:** January 17, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 3, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated December 9, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 14, 2021
- Exhibit 4: Written Statement of Appeal Dated June 17, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-four years old and is single but has a wife in Haiti. He lives in Suffolk County, Massachusetts.
2. Appellant worked in a shipping business. The company he worked for laid him off. He did not become employed until October 2021.
3. Appellant did have MassHealth in 2021.
4. The Appellant's monthly expenses totaled \$1,080.00, consisting of internet & cable \$60.00, cell phone \$80.00, transportation \$90.00, transportation \$90.00 clothing \$150.00, credit card \$300.00, wife support in Haiti \$300.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal but should have filed an appeal under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities". I will hear his appeal under this ground.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$22,101.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Suffolk County for a 43 year old single person was \$315.00. The tables reflect that Appellant could afford \$53.41. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did not submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal but should have filed an appeal under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”. I will hear his appeal under this ground.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$22,101.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$53.41 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of 315.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

Appellant worked in a shipping business. The company he worked for laid him off. He did not become employed until October 2021.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   6        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1033

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 3, 2022

**Decision Date:** January 18, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 3, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated December 9, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 18, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty years old and is single. She lives in Worcester County, Massachusetts. Appellant works in the food delivery business.
2. Appellant was a manager of four acoustic stores but due to the pandemic she was laid off in mid-March 2020. She did not apply for insurance right away because she thought she would be hired back and was ineligible for health insurance when she did apply after thirty days of being laid off.
3. Appellant does have health insurance in 2022 and did have insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,410.00, consisting of rent \$1,600.00, heat & light \$100.00, car insurance \$90.00, car gas \$100.00, food \$200.00, clothing \$50.00, toiletries \$150.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable". Appellant should also have applied under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$46,090.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Worcester County for a 29 year old single person was \$269.00. The tables reflect that Appellant could afford \$268.85 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**



G.L.c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

Appellant was a manager of four acoustic stores but due to the pandemic she was laid off in mid-March 2020. She did not apply for insurance right away because she thought she would be hired back and was ineligible for health insurance when she did apply after thirty days of being laid off.

The Appellant did submit a Statement of Grounds for Appeal-2020 “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” . Appellant should also have applied under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,090.00 in 2020, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$268.85 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$269.00 monthly for coverage. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Appellant is deemed to afford \$268.85 for health insurance coverage because of her income. Private insurance in the market place was \$269.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   8        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1066

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 14, 2022. The procedures to be followed during the hearing were reviewed with the Appellant wife who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated December 10, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated June 25, 2021
- Exhibit 4: Written Statement of Appeal Dated June 22, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant's wife is fifty-one years old and is married. She lives in Worcester County, Massachusetts. Appellant's husband works as a systems analyst but has been unemployed for two years.
2. Appellant's husband was laid off from his job in 2020 due to Covid 19. Appellant's wife is self-employed part-time in the language industry. Appellants filed for MassHealth but were unable to obtain an determination of their eligibility.
3. Appellants did not have health insurance in 2021. Appellants have applied with the Health Connector for health insurance in 2022.
4. The Appellant's monthly expenses totaled \$3,769.00, consisting of mortgage \$1,600.00, heat & light \$390.00, internet & cable \$234.00, cell phone \$200.00, car insurance \$200.00. car gas \$200.00, food \$800.00, toiletries \$80.00, water bill \$65.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "Other.During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable" But should have also appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$38,825.00 was less than \$50,730.00. The monthly premium for health insurance available on the private market in Worcester County for a 54 year old married person was \$839.00. The tables reflect that Appellant could afford \$200.59 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’s husband was laid off from his job in 2020 due to Covid 19. Appellant’s wife is self-employed part-time in the language industry. Appellants filed for MassHealth but were unable to obtain an determination of their eligibility.

The Appellant did submit a Statement of Grounds for Appeal-2020 under “Other.During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” But should have also appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both 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 2020, 150 percent of the FPL was \$25,365.00 for a married person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$38,825.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$200.59 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$839.00 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 \$200.59 for health insurance coverage because of her income. Private insurance in the market place was \$839.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1067

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** January 26, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 14, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated December 10, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 12, 2021
- Exhibit 4: Written Statement of Appeal Dated June 12, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-one years old and is single. He lives in Hamden County, Massachusetts.
2. Appellant worked in a dental business. The company he worked for laid him off for a short period of time. Appellant has been extremely busy.
3. Appellant does not have health insurance in 2022 and has not had insurance for quite a period of time.
4. The Appellant's monthly expenses totaled \$2,840.00, consisting of rent \$1,000.00, heat and electricity \$335.00, water \$100.00, internet & cable \$85.00, cell phone \$120.00, car \$400.00, car insurance \$260.00, car gas \$240.00, food \$300.00, clothing \$100.00, credit card \$200.00, entertainment \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$70,263.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 50 year old single person was \$376.00. The tables reflect that Appellant could afford \$468.42. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)



## ANALYSIS AND CONCLUSIONS OF LAW

G.L c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$70,263.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$468.42 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$376.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

Appellant worked in a dental business. The company he worked for laid him off for a short period of time. Appellant has been extremely busy.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2020 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

Number of Months Appealed:     12     Number of Months Assessed:     12    

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1069

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** January 24, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 14, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated December 11, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated June 14, 2021
- Exhibit 4: Written Statement of Appeal Dated June 14, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-five years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant worked in a machine shop business. The company he worked for laid him off in May 2020. He did not become employed until 2021.
3. Appellant did have health insurance in August 2021 and does have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$1,582.00, consisting of taxes \$530.00, home insurance \$74.00, internet & cable \$40.00, car insurance \$41.00, car gas \$50.00, food \$300.00, water bill \$80.00, heat \$166.00, electricity \$50.00, credit card \$250.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal " During 2020, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to you" but should have filed an appeal under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$33,870.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Norfolk County for a 54 year old single person was \$420.00. The tables reflect that Appellant could afford \$141.12. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to you” but should have filed an appeal under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$33,870.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$141.12 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$420.12 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Appellant worked in a machine shop business. The company he worked for laid him off in May 2020. He did not become employed until 2021.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_5\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1070

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 14, 2022

**Decision Date:** January 26, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 14, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Notice of Hearing dated December 10, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated June 25, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant worked in a restaurant business. The company he worked for laid him off in March 2020. He did not become employed until the fall of 2020.
3. Appellant did have health insurance in August 2021 and does have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$3,163.00, consisting of rent \$1,150.00, heat and light \$100.00, internet & cable \$150.00, cell phone \$68.00, transportation \$150.00 food \$400.00, credit card \$500.00, clothing \$50.00, entertainment \$200.00, toiletries \$50.00, student loan \$25.00, old credit card debt \$100.00, Irs \$220.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal " Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable" but should also have filed an appeal under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$46,364.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Norfolk County for a 31 year old single person was \$288.00. The tables reflect that Appellant could afford \$293.63. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)



## ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty.

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” but should also have filed an appeal under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter 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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,364.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$293.63 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$288.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1).

Appellant worked in a restaurant business. The company he worked for laid him off in March 2020. He did not become employed until the fall of 2020.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_12\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1119

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** January 12, 2022

**Decision Date:** January 31, 2022

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 CMR 1.02 and the rules and regulations promulgated thereunder.

### **JURISDICTION**

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of Mass. General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 12, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notice of Hearing (12-20-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (7-24-21) (with letter) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 41 during 2020, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$27,634.00 (Exhibit 2).
4. Appellant had been on health insurance through the Health Connector for several years with automatic payment, but changed bank accounts and did not realize the insurance had been cancelled as Appellant had not used it during 2020. (Appellant's testimony, Exhibit 3).
5. Appellant did get insurance again as of 2021 through the Health Connector. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. The expenses totaled approximately \$2,210.00 per month, or \$26,520.00 per year. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$316.00 per month. According to Table 3, Appellant was deemed to afford \$97.00. (Appellant Testimony).
9. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
11. Appellant claimed that they should be granted a waiver based on the grounds that they did not realize that their health insurance had been cancelled and that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived in whole, in part, or not at all.

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant did not have health insurance for 2020. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should

be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$27,634.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$97.00 per month; according to Table 4, Appellant, who was 41 years old in 2020, from Essex County, and filed the 2020 Massachusetts taxes as single with a family size of 1, would have had to pay \$316.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that they did not realize that their health insurance had been cancelled in 2020, and that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities. The monthly expenses for food, shelter, clothing and other necessities used all of the income. Appellant has health insurance for 2021. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

**PENALTY ASSESSED**

Number of Months Appealed: 12      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

Cc: Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.