

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 21-1840

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

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

**Hearing Date:** July 7, 2022

**Decision Date:** July 13, 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 July 7, 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) (30- 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 63 at the end of 2021. Exhibit 2.
2. Appellant lived in Hampden County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Based on the information derived from Appellant's Schedule HC, it appears that Appellant reported annual income of \$31,703 on his state taxes. Exhibit 2. However, Appellant testified credibly that his annual income in 2021 was \$53,781 and that he reported this amount on his tax return.

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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 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. Appellant did not work in 2021. His income consisted of Social Security income and withdrawals from an individual retirement account.
7. Appellant moved to Massachusetts in 2018 from another state. He was aware that he needed to obtain health insurance under Massachusetts state law, but did not know that such insurance had to meet minimum creditable coverage standards.
8. When Appellant first moved to Massachusetts, he applied for subsidized insurance through the Health Connector but was told that his income was too high to qualify.
9. Appellant then shopped on-line and ultimately purchased a product, which cost him \$335 for what he believed was medical, dental and vision coverage. Exhibit 3 (attachments).
10. The product that Appellant purchased was not insurance. It was a product that offered somewhat reduced costs for medical services received at selected providers. This product did not satisfy state minimum creditable coverage standards.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Insurance coverage satisfies the individual mandate requirement only if it constitutes “creditable coverage” as defined by the statute. M.G.L. c. 111M, § 2(a). “Creditable coverage” is defined as a plan that meets the standards for “minimum creditable coverage” (or “MCC”) under regulations promulgated by the Health Connector’s board. M.G.L. c. 111M, § 1. These regulations contain a number of requirements that an insurance plan must meet. Among these are requirements that a covered individual’s maximum out-of-pocket spending be capped at a certain amount. 956 C.M.R. § 5.03(2)(c). The product that Appellant bought did not have that feature. As a result, it did not meet MCC standards.

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, 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 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant was not employed. Thus, he could not have obtained insurance through employment.

Further, Appellant was unable to obtain government-subsidized insurance. In order to obtain Connector Care, which is government-subsidized insurance in Massachusetts, an individual must meet the eligibility requirements. See 956 CMR § 12.04 (Connector Care eligibility requirements). To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. Id. This amount is \$38,280, for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$53,781 and therefore he was not eligible for Connector Care. (I have found that this was the amount of income reported on his taxes based on Appellant's credible testimony, rather than on the information in Exhibit 2, which showed an income amount \$38,280. This finding is corroborated by Appellant's testimony that he had earlier applied for Connector Care and been determined not to be eligible, at a time when his income was roughly the same as it was in 2021.)

Finally, Appellant could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$53,781 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$4,302 annually or \$358 a month. During 2021, a person like Appellant who lived in Hampden County and was 63 years of age would have had to pay \$425 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In short, Appellant was unable to obtain affordable health insurance through employment, through government-subsidized insurance, or through purchase in the non-group market. Because Appellant could not have obtained affordable insurance during the time that he was uninsured, he should not have been subject to the individual mandate penalty. Thus, I am not required to determine whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08.

Further, even if I did have to find grounds to waive the penalty, I could take into account the fact that Appellant did obtain a product that he believed was health insurance. In determining whether to waive the penalty, I may consider a range of factors, including the cost of the product that Appellant did actually purchase. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly obtained a product that was not insurance and that did not meet MCC standards under state law. However, he did pay a significant amount of money for that product (although it was less than what health insurance would have cost him.) Appellant was not attempting to avoid premium cost by purchasing inadequate insurance. Unfortunately, the product that he purchased was not insurance and did not meet the minimum creditable coverage standards stated in M.G.L. c. 111M

In short, I will waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 21-1841

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

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

**Hearing Date:** July 7, 2022

**Decision Date:** July 13, 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 July 7, 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) (5 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 60 at the end of 2021. Exhibit 2.
2. Appellant lived in Worcester County in 2021. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2021 was \$20,544. 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 2021 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 his 2021 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. During 2021, Appellant's income consisted of unemployment compensation. She did not work at a job that offered health insurance.
7. Appellant did not apply for Connector Care, which is subsidized insurance offered by the Commonwealth of Massachusetts, because she did not have completed tax returns for 2021 until the fall of that year, and without those returns, she was unable to establish what her projected income for the year was.
8. Appellant did apply for Connector Care early in 2022 and was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether 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 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant was not employed. Thus, she could not have obtained insurance through employment.

Appellant did not apply for Connector Care during 2021 because she did not have her 2021 income tax return completed until late in the year and she believed that she needed that tax return to establish her eligibility. In order to obtain Connector Care, which is government-subsidized health insurance in Massachusetts, an individual must meet certain eligibility requirements. See 956 CMR § 12.04 (Connector Care eligibility requirements.) To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. *Id.* This amount is \$38,280, for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$20,544 and therefore she was eligible for Connector Care. If Appellant had applied and stated that income, and if she was able to verify that level of income, she would have been determined eligible. Fortunately, she did apply in 2022 and was found eligible. As a result, she was enrolled as of the date of the hearing.

Finally, Appellant could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$20,544 was deemed able to afford only 2.9 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$595 annually or \$49 a month. During 2021, a person like Appellant who lived in Worcester County and was 60 years of age would have had to pay \$401 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could have obtained affordable insurance, I must consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I determine that she has. Appellant's income was very low. The only way she could have obtained affordable insurance was through the Connector Care program. She didn't apply for that program based on her belief that she needed her tax return to establish her income. When she did get the tax return for 2022, she applied and was accepted. Purchasing health insurance without Connector Care would have caused her to experience a serious deprivation of the necessities of life, which constitutes a ground for waiver of the penalty. See 956 C.M.R. § 6.08(1)(e). Further, I take into account the fact that Appellant did eventually obtain insurance and was insured as of the date of the hearing. Thus, 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 21-1860

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

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

**Hearing Date:** July 14, 2022

**Decision Date:** July 20, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 14, 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) (21 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 60 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$51,644. 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 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. Appellant worked in the restaurant industry. He was laid off in March of 2020 because of business closures caused by the Coronavirus pandemic. He remained out of work until November 2021.
7. When he started work in November 2021, he was not eligible to receive insurance through his employment for a year.
8. During most of 2021, until he started working, he lived on unemployment insurance.
9. During his period of unemployment, Appellant experienced financial difficulties and relied on credit cards to pay for necessities. As a result, he accumulated credit card debt, which he had to pay off.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

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

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During most of 2021, Appellant was not employed. Once he started working, he was not eligible for insurance through his work. Thus, he could not have obtained insurance through employment at any point in the year.

Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280 for a household of one person like Appellant’s. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant’s income during 2021 was \$51,644 and therefore he was not eligible for Connector Care.

Finally, Appellant could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c.

111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$51,644 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$4,133 annually or \$344 a month. During 2021, a person like Appellant who lived in Middlesex County and was 60 years of age would have had to pay \$401 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could not have obtained affordable insurance in 2021, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 21-1862

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

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

**Hearing Date:** July 14, 2022

**Decision Date:** July 20, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 14, 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) (14 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 50 at the end of 2021. Exhibit 2.
2. Appellant lived in Worcester County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$75,504. Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2021 state income taxes, and confirmed at the hearing, that he had health insurance meeting minimum creditable coverage

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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 2021 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.

standards from January through June, but did not have such insurance for the remaining six months of the year. Exhibit 2.

6. Throughout 2021, Appellant worked at a job that offered insurance at a cost of \$98 a week. He considered this unaffordable and he did not take it.
7. Appellant was divorced and had three minor children. He was legally responsible to pay \$467 a week in child support. See Exhibit 2 (Probate Court financial statement.)
8. During the first part of 2021, Appellant had been insured under his former wife's employment-based insurance. However, as a result of the divorce, he was no longer insured under that plan after June.
9. After the child support and taxes were deducted from his paycheck, Appellant had barely enough money to cover his necessary expenses, such as rent, car maintenance, and utilities. See Exhibit 2.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring a penalty. The Health Connector's "Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00", which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for only six months. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only three 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 2021 Schedule HC instructions at pages HC 7-9

Appellant was not eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) This amount is \$38,280, for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$75,504 and therefore he was not eligible for Connector Care.

However, Appellant could have afforded either employment-based insurance or unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$75,504 was deemed able to afford 8 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$6,040 annually or \$503 a month.

During 2021, Appellant was offered insurance through employment at a cost of \$98 a week, or \$392 a month. That amount is deemed affordable under state affordability standards. Further, during 2021, a person like Appellant who lived in Worcester County and was 50 years of age could have obtained insurance for a premium of \$390 a month. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would also have been affordable.

Because Appellant could have obtained affordable insurance in 2021, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant was legally obligated to pay \$467 a week, or \$1,868 a month in child support. This significantly reduced the amount of money he had available for other necessities of life. Appellant offered a financial statement showing that, after taking into account taxes and child support, he was left with barely enough money to cover modest necessary expenses, such as rent and car maintenance. Given this financial situation, the purchase of health insurance would have caused him to experience a "serious deprivation" of the necessities of life, which constitutes grounds for waiving the penalty. 956 C.M.R. § 6.08(1)(e). Thus, I exercise my discretion to waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 3

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 21-1864

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

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

**Hearing Date:** July 14, 2022

**Decision Date:** July 20, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 14, 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) (6 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 25 at the end of 2021. Exhibit 2.
2. Appellant lived in Suffolk County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2021 was \$28,803. 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 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. In 2021, Appellant earned income through temporary work. His hours were unreliable and inconsistent. He had difficulty making the commute to work because he didn't have a car. As a result, he experienced variable and uncertain income, and began to fall behind in his expenses.
7. Appellant was renting an apartment in early 2021. However, because of his financial difficulties, he fell behind in his rent and was unable to stay in his apartment.
8. He left the rental apartment in May and was without permanent housing through August, during which time he stayed with various friends or family members.
9. As of January 2022, Appellant became insured under his mother's employment-based insurance plan.
10. Appellant never applied for Connector Care because he was unaware of its availability.
11. Appellant is a citizen of the United States.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9

During 2021, Appellant worked at temporary jobs that did not offer him insurance. Thus, he did not have access to employment-based insurance.

Appellant was eligible for Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) Id. This amount is \$38,280, for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.) In this case, Appellant's income during 2021 was \$28,803 and therefore he was eligible for Connector Care provided he met the other eligibility requirements, which are citizenship or legal permanent residence in the United States and lack of access to affordable employment-based insurance. 956 CMR § 12.04. Based on his testimony, I conclude that



Appellant did meet these requirements. Thus, in 2021, he was eligible for Connector Care and so could have obtained affordable government-subsidized insurance.

Finally, Appellant could not have afforded unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$28,803 was deemed able to afford 4.2 percent of income for health insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$1,209 annually or \$100 a month. During 2021, a person like Appellant who lived in Suffolk County and was 25 years of age would have had to pay a premium of \$263 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could have obtained affordable insurance in 2021 but didn't, I am required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. During 2021, Appellant experienced financial difficulties that caused him to become delinquent on his rent to a degree that he was forced to break his lease and leave the apartment. He had several months in which he had no permanent address. Being homeless or more than 30 days in arrears in rent constitutes a ground for waiving the penalty. 956 C.M.R. § 6.08(1)(a). Thus, I exercise my discretion to waive the penalty in its entirety.

Appellant was insured through his mother's insurance as of the date of the hearing. Under the federal Affordable Care Act, an individual can be insured on a parent's insurance until that individual turns 26. See 42 U.S.C. § 300gg-141. In the future, if Appellant ceases to be eligible for coverage under his parent's plan, and if he has income below 300 percent of the federal poverty level, which is \$40,776 in 2022, he would be eligible to obtain Connector Care, which will provide him with low-cost, comprehensive insurance. He can obtain Connector Care by applying at the Health Connector website, which is [www.mahealthconnector.org](http://www.mahealthconnector.org), or by calling the Health Connector at 877-623-6765.

#### **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: PA21-1755

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2021 Tax Year Penalty  
**Hearing Date:** May 25, 2022  
**Decision Date:** July 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<sup>1</sup>

The Appellant appeared at the hearing on May 25, 2022, which was held by telephone.

The hearing record consists of the testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection. Pursuant to an Open Record request, Appellant submitted the documents listed as Exhibits 5 and 6 below.

Exhibit 1	Hearing Notice dated April 13, 2022	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2021	1
Exhibit 3	Statement of Grounds for Appeal	5
Exhibit 4	Final Decision PA 19-213	4
Exhibit 5	Letter from L. S., dated 5/25/22	1
Exhibit 6	J. S. Personal & Check Info.	1

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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 45 years old in November 2021. The Primary Taxpayer filed their Federal Income Tax Return as a single person, with no dependents claimed. (Exhibit 2).
2. The Primary Taxpayer (aka “Appellant”) lived in Middlesex County, MA during 2021. (Exhibit 2).
3. The Appellant’s Federal Adjusted Gross Income for 2021 was \$54,000.00. (Exhibit 2).
4. The Appellant did not have MCC-compliant health insurance coverage during twelve (12) months of tax year 2021 according to Appeal Information from Schedule HC for 2021. (Exhibit 2).
5. Appellant appeals their tax assessment of twelve (12) months according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$54,000, could afford to pay \$360.00 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 45, living in Middlesex County, could have purchased private market health insurance for \$336.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.
8. Employer-sponsored insurance was available to Appellant at a cost of about \$600.00 per month during 2021. Thus, private insurance was not affordable for the Appellant during 2021. (Primary Taxpayer’s Testimony).
9. The Appellant was not income-eligible for government-subsidized ConnectorCare coverage in 2021 because their federal Adjusted Gross Income of \$54,000.00 was more than the Federal poverty level of \$38,280.00 for a single individual during 2021. (Schedule HC for 2021).
10. The Appellant was employed as a maintenance technician during 2021. (Appellant’s Testimony).

11. Appellant stated that the address they listed on their taxes and appeal form was for mailing purposes only and that they had been homeless for several years. (Appellant's Testimony and Exhibit 3). Appellant's mother confirmed Appellant's statement. (Exhibit 5).
12. Appellant is very stressed and anxious about being homeless and stated they do not have sufficient money to pay for basic necessities such as food and shelter. They testified that they are barely eating and have lost more than 20 pounds. (Appellant's Testimony, which I credit).
13. Appellant submitted a document showing that their net pay after deductions including for a tax levy and a garnishment for unpaid debt, was \$355.54 weekly or \$1,422.16 monthly.
14. Appellant's mother recently suffered a second heart attack. Their father is no longer living. Appellant helps their mother when possible. (Appellant's Testimony).
15. Appellant's 2021 monthly living expenses of \$3,538.00 included: Electricity - \$125.00, Food - \$10.00, Car insurance - \$155.00, Car payments - \$575.000, Gas - \$645.00, Phone - \$100.00, Cable/internet - \$133.00, Credit Card Debt - \$875.00 and Child support - \$920.00. (Appellant's Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" 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 boxes on the Statement of Grounds for Appeal saying that during 2021, they were homeless and the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 3).

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

To determine if the Appellant's 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 Taxpayer 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 Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$54,000.00, could afford to pay \$360.00 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 45, living in Middlesex County, could have purchased private market health insurance for \$336.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.

Employer-sponsored insurance was available to Appellant at a cost of about \$600.00 per month during 2021. Thus, private insurance was not affordable for the Appellant during 2021. (Primary Taxpayer's Testimony).

The Appellant was not income-eligible for government-subsidized ConnectorCare coverage in 2021 because their federal Adjusted Gross Income of \$54,000.00 was more than the Federal poverty level of \$38,280.00 for a single individual during 2021. (Schedule HC for 2021).

The Appellant was employed as a maintenance technician during 2021. (Appellant's Testimony).

Appellant stated that the address they listed on their taxes and appeal form was for mailing purposes only and that they had been homeless for several years. (Appellant's Testimony and Exhibit 3). Appellant's mother confirmed Appellant's statement. (Exhibit 5).

Appellant is very stressed and anxious about being homeless and stated they do not have sufficient money to pay for basic necessities such as food and shelter. They testified that they are barely eating and have lost more than 20 pounds. (Appellant's Testimony, which I credit).

Appellant submitted a document showing that their net pay after deductions including for a tax levy and a garnishment for unpaid debt, was \$355.54 weekly or \$1,422.16 monthly.

Appellant's mother recently suffered a second heart attack. Their father is no longer living. Appellant helps their mother when possible. (Appellant's Testimony).

Appellant's 2021 monthly living expenses of \$3,538.00 included: Electricity - \$125.00, Food - \$10.00, Car insurance - \$155.00, Car payments - \$575.00, Gas - \$645.00, Phone - \$100.00, Cable/internet - \$133.00, Credit Card Debt - \$875.00 and Child support - \$920.00. (Appellant's Testimony).

Based on the totality of the circumstances and evidence contained in the administrative record, I

conclude that Appellant’s homelessness constituted a hardship within the meaning of 956 CMR 6.08 (1)(a). Additionally, their net monthly income of \$1,422.16 was insufficient to cover their monthly living expenses of \$3,538.00. Thus, I conclude that Appellant has demonstrated they would have experienced hardship if they had paid for health insurance during 2021. 956 CMR 6.08 (1) and (3). Accordingly, the 12-month penalty should be waived in its entirety.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance that is MCC-compliant in Massachusetts, as the individual mandate requires.<sup>2</sup>

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

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<sup>2</sup> If Appellant does not have MCC-compliant health insurance before next year, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-6765 or [www.mahealthconnector.org](http://www.mahealthconnector.org) during the Open Enrollment period, from November 1, 2022 through January 23, 2023.





Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1814

**Appeal Decision:** Appeal Approved -- 2021 tax penalty overturned.

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

**Hearing Date:** June 23, 2022

**Decision Date:** June 27, 2022

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021 (5 pages);
3. Appellant’s Letter in Support of Appeal (1 page);
4. Landlord’s Rent Arrears Letter (1 page);
5. Electric Utility Arrears Letter (1 page);
6. RAFT Stipend Letter (1 page);
7. 2019 Tax Penalty Appeals Decision (PA19-72) (3 pages); and
8. Health Connector’s Notice of Hearing (2 pages).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. 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 had previously appealed a 12 month tax penalty that was assessed for 2019. A prior Health Connector hearing officer waived the 2019 penalty in its entirety under the Health Connector's financial hardship regulations in a decision dated May 29, 2020. Exhibit 7 (Docket No. PA19-72). The Appellant's federal adjusted gross income (AGI) for 2019 was \$24,519. Exhibit 7, page 1, par. 3.
3. In this case, the Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$45,470. Exhibit 1.
4. The Appellant was 33 years old at the beginning of 2021 and resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
5. The Appellant's 2021 AGI (\$45,470) was more than 300% of the federal poverty level (\$38,280) 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 in 2021.
6. Based on DOR Table 3 the Appellant could afford to pay 7.60 % of his income -- or \$288 per month -- for health insurance coverage in 2021. (The calculation is 7.60% multiplied by \$45,470 AGI = \$3,455.72 per year divided by 12 months = \$287.97 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$268 per month in 2021.

8. The Appellant was substantially behind in his electric utility bills in 2020 and 2021. For the utility bill that was due December 21, 2021, the Appellant owed \$2,439.29. Exhibit 5. The Appellant got behind in his utility payments in early 2020 when his work hours were substantially decreased due to the coronavirus pandemic (COVID-19). Testimony and Exhibit 3.
9. The Appellant was also behind in his rent payments. Exhibit 3 and Testimony. The Appellant received a written demand from his Landlord seeking payment of \$1,125. Exhibit 5.
10. In 2021 the Appellant sought to address his financial difficulties by applying for a stipend through the RAFT program administered by another state agency. His application was successful in late 2021. The Appellant received a cash stipend in the amount of \$3,375 (3 months x \$1,125 per month), a past due rent stipend in the amount of \$1,125, and a utility stipend in the amount of \$2,094.68 (total stipend = 6,594.68). Exhibit 6. See also Exhibit 3 and Testimony.
11. In his letter supporting his appeal the Appellant stated that he was “presently waiting on my application with MassHealth.” Exhibit 3. In his appeal hearing testimony the Appellant also referred to updating a Health Connector application. There is no documentation of these efforts in the hearing record. In the 2019 appeal decision the Hearing Officer found that the Appellant did not enroll in the health plan offered by his new employer due to its cost. Exhibit 7, page 1, par. 8.
12. The Appellant was involved in a car accident in late 2021 and had to purchase a replacement used vehicle. In addition to the purchase price the Appellant is now concerned that the replacement car will not pass the state inspection due to the discovery of rust. Testimony.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2021 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions

and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 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 2021.)

## **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 2021. 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 – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant presented evidence that documented that he was behind in both electric utility and rent payments. See Exhibits 4 and 5. He also documented that another state agency found that he was entitled to a \$6,594.68 stipend from the RAFT program for general support, electricity arrears, and rent arrears. Exhibit 6. See also Exhibit 3 and Testimony.

I find the RAFT stipend decisive in this appeal, especially since the RAFT stipend mirrors the Health Connector’s financial hardship regulation that applies to this appeal. See 956 Code Mass. Regs. 6.08 (1) (a) (30 days in arrears in rent), 6.08 (1) (b) (utility shut off notice), and 6.08 (1) (e) (serious deprivation of food, shelter, clothing or other necessities). (My understanding is that utility companies did not terminate service during the COVID public health emergency.)

The RAFT stipend gave the Appellant a fresh start. I emphasize that he should use that fresh start to pursue health insurance coverage as required by state law. Based on his more recent federal adjusted gross income it appears that the Appellant should be able to afford health insurance coverage. See Findings of Fact, Nos. 5 -7, above.

**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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 21-1836

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

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

**Hearing Date:** July 7, 2022

**Decision Date:** July 13, 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 July 7, 2022. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

### **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 27 at the end of 2021. Exhibit 2.
2. Appellant lived in Bristol County in 2021. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2021 of \$42,649. 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 2021 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 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2021. Exhibit 2.
6. In 2021, Appellant worked at a seasonal job. As a result, he was unemployed for part of the year and during that time collected unemployment.
7. His employer offered insurance to him during the time that he worked, but he believed that the cost of the insurance was about \$200 a week, which he considered unaffordable. During the time that he was unemployed, he was not offered insurance.
8. During 2021, Appellant had a car accident and had to purchase a new car. As a result of this expense, he was unable to pay his rent for a period of time. The landlord commenced eviction proceedings against him in the local housing court. Exhibit 3. Ultimately, Appellant was able to reach a settlement that prevented him from losing his rental apartment.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9.

During 2021, Appellant was offered insurance during the part of the year that he worked. However, that insurance would have cost him approximately \$200 a week or \$800 a month. In order to determine whether that would have been affordable to him, I rely on affordability standards, which are established by the Health Connector Board in accordance with M.G.L. c. 111M, and reprinted in the Affordability Schedule, which is in the instructions to the 2021 Schedule HC at page HC-9. Under those standards, an individual in a household of one like Appellant who earned \$42,649 is deemed able to afford 7.45% of income for insurance. (I obtained that percentage figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that would amount to \$3,177 per year or \$264 per month. Thus, the insurance offered to Appellant by his employer would not have been affordable under those standards.

Further, Appellant was not eligible to obtain government-subsidized insurance. In Massachusetts, Connector Care is a program of government-subsidized insurance. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty level. See 956 CMR §

12.04 (Connector Care eligibility requirements.) In this case, Appellant would not have qualified based on income because his household income of \$46,547 was above \$38,280, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.)

However, Appellant could have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards. During 2021, a person like Appellant who lived in Bristol County and was 27 years of age could have obtained insurance for a premium of \$263 a month. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). As stated above, Appellant is deemed able to afford \$264 a month for insurance. Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. During 2021, Appellant experienced financial difficulties that ultimately led him to fall behind in his rent and, in turn, to face eviction proceedings. Under the Health Connector's regulations, the receipt of an eviction notice is a ground for waiving the individual mandate penalty. See 956 C.M.R. § 6.18(1)(a). Further, I note that the purchase of unsubsidized insurance would have been barely affordable for Appellant under the affordability standards. Additionally, Appellant's income was variable during the year because he worked at a seasonal job, and as a result, there would have been times when he would have been unable to afford health insurance on his monthly income. In light of all these factors, I will exercise my discretion to waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 21-1839

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

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

**Hearing Date:** July 7, 2022

**Decision Date:** July 13, 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, a married couple who will be referred to herein as Husband and Wife, appeared at the hearing, which was held by telephone, on July 7, 2022. Also appearing was Appellants' tax advisor, who testified. The hearing record consists of the testimony of Appellants and their advisor, 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) (16 pages)

### **FINDINGS OF FACT**

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

1. Husband was 31 and Wife was 28 at the end of 2021. Exhibit 2.
2. Appellants lived in Bristol County in 2021. Exhibit 2.
3. Appellants filed their taxes as married filing jointly with no dependents. Exhibit 2.
4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2021 of \$123,456. 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 2021 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 2021 state income taxes, and confirmed at the hearing that Husband had health insurance meeting minimum creditable coverage standards throughout 2021. However, Wife had such insurance only in November and December. Exhibit 2.
6. In 2021, Husband worked in a job that offered him health insurance and he was insured under his employer's plan all year.
7. Appellants got married in the middle of October 2021. Once they were married, Wife was eligible to enroll in coverage through Husband's health insurance plan and she did so effective November 1. Thus, she was covered for the last two months of the year and was still covered as of the date of the hearing.
8. During 2021, Wife earned \$25,331. The balance of the couple's reported income came from Husband's salary.
9. Wife worked at several part-time jobs, none of which offered insurance.
10. Her hours in her part-time jobs were variable.
11. At some point before 2021, Wife had received insurance through the Health Connector. She applied to obtain insurance through the Health Connector while she was still unmarried in 2021. She submitted pay stubs to verify her income. She believes that the pay stubs she submitted represented periods when her pay was high because she was working a relatively large number of hours. She was notified by the Health Connector that her income was too high to receive Connector Care, which is a program of subsidized health insurance offered to people below certain income levels.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, an individual mandate tax penalty was assessed against Appellants because Wife was without insurance for the first ten months 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 ten months. Therefore, she was entitled to a three-month gap without penalty, and so she has been assessed a penalty for only seven 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 2021 Schedule HC instructions at pages HC 7-9. In making this analysis, I should consider Wife's income for the period when she was uninsured, i.e., the period when she was unmarried. Thus, instead of using Appellants' joint income, most of which came from Husband's salary, I will use only the amount of income that Wife herself earned, which was \$25,331 annually.

During the part of 2021 that she was uninsured, Wife worked at several part-time jobs, none of which offered her insurance. Thus, she could not have obtained insurance through employment.

Further, Wife was unable to obtain government-subsidized insurance. In Massachusetts, Connector Care is a program of government-subsidized insurance. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 CMR § 12.04 (Connector Care eligibility requirements.) In this case, Wife's income during the time that she was unmarried and uninsured amounted to \$25,331 annually. Thus, based on her income, she should have been eligible for Connector Care, because this amount is below \$38,280, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$38,280 from Table 2 to the instructions for the 2021 Schedule HC.)

However, Wife testified credibly that she was unable to obtain Connector Care in 2021 because she was determined ineligible after she submitted pay stubs to verify her income. As part of the eligibility determination process, individuals may be asked to submit proof of income, such as pay stubs. Wife testified that her income was variable and thus an individual pay stub might not accurately reflect her annual income. It appears likely that the pay stubs she submitted were annualized in a way that overstated her income for the year.

Finally, Wife could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Wife who was in a household of one person and made \$25,331 was deemed able to afford only 2.9 percent of income for insurance. (I obtain that figure from Table 3 of the 2021 Schedule HC instructions.) In this case, that amounts to \$734 annually or \$61 a month. During 2021, a person like Wife who lived in Bristol County and was 28 years of age would have had to pay \$263 a month for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In short, Wife was unable to obtain affordable health insurance through employment, through government-subsidized insurance, or through purchase in the non-group market. Because Wife could not have obtained affordable insurance during the time that she was uninsured, she should not have been subject to the individual mandate penalty. Thus, I am not required to determine whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will waive the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 7

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

## Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1891 (ND)

**Appeal Decision:** Appeal Approved -- 2021 tax penalty overturned.

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

**Hearing Date:** July 21, 2022

**Decision Date:** July 28, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (5 pages);
3. Appellant's Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2021. The basis for the penalty was that the Appellant was not insured at any time in 2021. 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 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$44,618. Exhibit 1.
3. The Appellant was 35 years old at the beginning of 2021, and he resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellant's 2021 AGI (\$44,618) was more than 300% of the federal poverty level (\$38,280 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.45% of his income -- or \$277 per month -- for health insurance coverage in 2021. (The calculation is 7.45 % multiplied by \$44,618 AGI = \$3,324.04 per year divided by 12 months = \$277 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$275 per month in 2021.



7. In years prior to 2021 the Appellant worked for an employer who offered health insurance as a job benefit. The Appellant did not enroll in the employer's health plan because the portion of the premium that the Appellant would have to pay was more than he could afford. The Appellant reports that a penalty was not assessed due to his income, but there is no verification of this fact in the record of this hearing. Testimony and Exhibit 3.
8. For 2021 the employer modified its health plan so that its employees did not have to pay a portion of the premium. However, the employees who were not already enrolled in the health plan were not notified of this fact. Testimony and Exhibit 3.
9. The Appellant sought to enroll in his employer's health plan in 2021 when he learned that employees no longer had to pay a portion of the premium. The Appellant was not able to enroll in 2021 because the employer's open enrollment period had expired. Testimony and Exhibit 3.
10. The Appellant enrolled in his employer's health plan starting on January 1, 2022 – the earliest enrollment date that was available to him. Testimony and Exhibit 3.
11. The Appellant's unexpected living expenses in 2021 included major repairs to his pickup truck, totaling approximately \$3,500. Testimony.
12. The Appellant was laid off later in 2022, and he had a pending application for government subsidized health insurance (MassHealth or Health Connector)
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 2021 Massachusetts income tax return.

14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 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 2021.)

## **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 2021. 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 – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence that the Appellant produced in this tax penalty appeal illustrates the Appellant’s sensitivity to the cost of health insurance due to his income. The starting point is the objective standards set forth in DOR Tables 3 and 4: the Appellant could afford to pay \$277 per month for health insurance for individual coverage that would cost \$275 per month. There is, in other words, no margin for error under the DOR tables. See Findings of Fact, Nos. 5 and 6, above.

Initially, the Appellant declined to enroll in the health plan offered by his employer because the portion of the premium paid by the employees was more than he could afford. For 2021, however, the employer modified its health plan so that employees no longer had to pay a portion of the premium. Unfortunately, employees who – like the Appellant – were not already enrolled in the employer’s health plan were not notified of this change.

When the Appellant learned that he no longer had to pay a portion of the premium he sought to enroll in his employer’s health plan. His effort to enroll was not successful because the employer’s open enrollment period had already expired. The Appellant successfully enrolled effective January 2022 – the first date that was available to him.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



## Massachusetts Health Connector Appeals Unit

### Tax Penalty Appeal Decision—Docket No. PA21-1893 (KN)

**Appeal Decision:** Appeal Approved -- 2021 tax penalty overturned.

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

**Hearing Date:** July 21, 2022

**Decision Date:** July 28, 2022

#### **AUTHORITY**

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

#### **JURISDICTION**

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

#### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (5 pages);
3. 2020 Tax Penalty Appeal Decision (Docket No. PA20-643) (4 pages, dated November 22, 2021); and
4. Health Connector's Notice of Hearing (2 pages).

#### **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2021. There was a two-fold basis for the penalty assessment: (1) that the Appellant did not have health insurance at any time in 2021; and (2) that the Appellant was not a Massachusetts resident starting on Oct. 2, 2021. See Exhibit 1 and Exhibit 2.
2. Based on Exhibits 1 and 2 and the Appellant's hearing testimony, I find that the Appellant was not insured in Massachusetts in 2021.
3. The Appellant added the handwritten comment "Moved to California" to her pre-printed appeal form. Exhibit 2, page 2. On Exhibit 1 the Appellant stated that she was a part-year resident in Massachusetts in 2021 who resided in another state starting on October 2, 2021. A California address – not a Massachusetts address – appears on the documents in the hearing record: Exhibit 1, Exhibit 2, pages 1 and 3 (post office cancellation mark); and Exhibit 4, page 1 (hearing notice). I find that the Appellant was not a full-time Massachusetts resident for all of 2021.
4. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ 47,265. Exhibit 1.
5. The Appellant's 2020 AGI was \$86,890, as found by a Health Connector hearing officer in the Appellant's 2020 tax penalty appeal. Exhibit 3, paragraph 3 (page 2).
6. The Appellant was engaged to be married. In September 2020 her fiancé moved to California where he lived with his Mother (his Father had died). The Appellant, who was originally from Massachusetts, began the process of transitioning herself to California. This process including being licensed as a dentist in California.  
Testimony.
7. In 2020 the Appellant was employed – and had health insurance through her employer – for January through July when she was laid off due to the coronavirus pandemic (COVID-19), according to the fact findings in the Appellant's 2020 tax penalty appeal which I adopt. Exhibit 3, paragraph 11 (page 2).



8. I adopt the prior hearing officer's finding that the Appellant moved out of state in approximately April 2021. Exhibit 3. I also credit the Appellant's explanation that she entered October 2, 2021, on her Massachusetts state income tax return as the date for her California residence since that date reflected when she was able to obtain a job and earned income in California.
9. The Appellant obtained a short-term job in Massachusetts for January, February, and perhaps March 2021. She was laid off from that job due to the shortfall in dental patients due to coronavirus pandemic. The Appellant did not have any further employment in Massachusetts in 2021. Over the next six months (April – September) the Appellant split time between Massachusetts and California, where she lived with her fiancé and his mother. Testimony.
10. The Appellant's 2021 AGI (\$47,265) was more than 300% of the federal poverty level (\$38,280 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.
11. Based on DOR Table 3 the Appellant could afford to pay 7.60% of her income -- or \$299 per month -- for health insurance coverage in 2021. (The calculation is 7.60% multiplied by \$47,265 AGI = \$3,592.14 per year divided by 12 months = \$299.34 per month.)
12. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age (32 years) and location (Norfolk County) for \$268 per month in 2021.
13. In 2021 the Appellant's living expenses increased due to her transition from the East coast to the West coast while her income decreased due to the substantial periods when she was not employed. 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 2021 Massachusetts income tax return.

15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 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 2021.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 6 month tax penalty because the Appellant did not have health insurance coverage in 2021. 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 – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

For the Appellant in this case 2020 and 2021 were a transitional period due to her loss of employment opportunities due to the coronavirus pandemic (COVID-19), her move from Massachusetts to California to join her fiancé, the time devoted to California licensing requirements in order to be employed, and the time devoted to a job search. By October 2021 the Appellant had a new job in California and any obligation to be insured under Massachusetts law had come to an end.

The Department of Revenue correctly assessed a six month penalty for 2021 based on the Appellant’s status as a part-year resident. See 2001 Massachusetts Schedule HC Health Care, page HC-2 (“If you moved out a Massachusetts during 2021, the requirement to obtain and maintain health insurance applies to you up to last day of the last full month you were a resident.”). To this three month period when the Appellant was employed in California (October – December) the DOR added the three month administrative grace period.

To that, I have added consideration of the Appellant’s status under the Health Connector’s financial hardship regulation. This takes account of the Appellant’s unemployment in much of 2021 and the other costs of the Appellant’s move from Massachusetts to California. After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

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

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1771

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** May 31, 2022

**Decision Date:** July 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 May 31, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-13-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-8-22) (with letter and documents) (10 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 36 during 2021, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January, November and December of 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$43,479.00 (Exhibit 2).
4. Appellant purchased health insurance through the employer that they did not realize did not meet minimum creditable coverage. (Appellant's testimony, Exhibit 3).
5. In addition, Appellant's expenses for food, clothing, shelter, and transportation and other necessities used a significant amount of the income. The expenses were approximately \$3,000.00 per month or \$36,000.00 per year. (Appellant Testimony).

6. Appellant had full coverage as of November 2021 and continues to have coverage that meets the requirements for Massachusetts. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$275.00 for coverage. According to Table 3, Appellant was deemed to afford \$269.00.
9. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
11. Appellant claimed that they should be granted a waiver based on the grounds that they had purchased insurance through the employer that did not meet minimum creditable coverage and did not realize that until after 2021. (Testimony of Appellant, Exhibit 3). Appellant was able to obtain coverage that did meet minimum creditable coverage as of November 2021 when Appellant became a full-time employee.
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for January and November and December 2021. They have been assessed a tax penalty for six 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$43,479.00 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 \$269.00 per month; according to Table 4, Appellant, who was 36 years old in 2021, from Essex County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$275.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had purchased insurance through the employer that they did not realize did not meet minimum creditable coverage. As of November 2021, when Appellant became full-time the health insurance did meet MCC and Appellant continues to have that insurance. In addition, Appellant's expenses for food, shelter, clothing and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

**PENALTY ASSESSED**

Number of Months Appealed: 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 2021.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1772

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** May 31, 2022

**Decision Date:** July 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 May 31, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-13-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-6-22) (with letter and documents) (5 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, both age 53 during 2021, from Essex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellants did have health insurance for December of 2021, but did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$97,948.00 (Exhibit 2).
4. Appellants purchased health insurance that they did not realize did not meet minimum creditable coverage. (Appellant's testimony, Exhibit 3).
5. Appellants did not become aware that the insurance did not meet Massachusetts requirements until February 2022 when they did their taxes. (Appellant Testimony).

6. Appellants had full coverage as of December 2021 and continue to have coverage that meets the requirements for Massachusetts. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$928.00 for coverage. According to Table 3, Appellants were deemed to afford \$653.00.
9. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
11. Appellants claimed that they should be granted a waiver based on the grounds that they had purchased insurance that did not meet minimum creditable coverage and did not realize that until after 2021. (Testimony of Appellant, Exhibit 3). Appellants were able to obtain coverage that did meet minimum creditable coverage as of December 2021 when one of Appellants became employed by an employer that offered such coverage.
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Appellants did have health insurance for December 2021, but did not have health insurance for the remaining months of 2021. They have been assessed a tax penalty for eight months. Appellants 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 Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellants during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellants, with an adjusted gross income of \$97,948.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$653.00 per month; according to Table 4, Appellants, who were both 53 years old in 2021, from Essex County, and filed the 2021 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$928.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they had purchased insurance that they did not realize did not meet minimum creditable coverage. As of December 2021, when Appellant became employed at an employer that offered full health insurance requirements, the health insurance did meet MCC and Appellant continues to have that insurance. For these reasons, the waiver of the penalty is approved.

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

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1773

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** May 31, 2022

**Decision Date:** July 25, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 31, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-13-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-8-22) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 56 during 2021, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$60,934.00 (Exhibit 2).
4. Appellant did not have health insurance available through the employer. Appellant believed that health insurance was not affordable based on monthly expenses. (Appellant's testimony, Exhibit 3).
5. Appellant's expenses for food, shelter, clothing, transportation and other necessities used a significant amount of the income. The expenses were approximately \$3,950 per month, or \$47,400 per year. (Appellant Testimony).

6. Appellant now has health insurance through the Health Connector. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. Appellant could just afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$401.00 for coverage. According to Table 3, Appellant was deemed to afford \$406.00.
9. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2021).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, transportation, clothing 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 or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2021. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum

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

Private insurance was just affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$60,934.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$406.00 per month; according to Table 4, Appellant, who was 56 years old in 2021, from Norfolk County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$401.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, and other necessities. Appellant's expenses for these items used a significant amount of the income. Health insurance was not available through the employer. Appellant now has health insurance through the Health Connector. For these reasons, the waiver of the penalty is approved.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1775

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** May 31, 2022

**Decision Date:** July 25, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 31, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-13-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-7-22) (with letter and documents) (11 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 35 during 2021, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January through April of 2021, but did not have it for the remainder of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$30,121.00 (Exhibit 2).
4. Appellant did have health insurance available through the employer, but Appellant believed it was not affordable. Appellant had enrolled in health insurance through the Health Connector, but the premiums increased and Appellant was no longer able to pay it. (Appellant's testimony, Exhibit 3).

5. Appellant was eventually able to correct the premium amount and obtained the health insurance again for 2022. (Appellant Testimony).
6. Appellant now has health insurance through the Health Connector. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$275.00 for coverage. According to Table 3, Appellant was deemed to afford \$105.00.
9. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
11. Appellant claimed that they should be granted a waiver based on the grounds that they could not afford the health insurance premiums that were increased after April 2021. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for January through April of 2021, but did not have it for the remainder of 2021. They have been assessed a tax penalty for five months. Appellant appealed the



assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$30,121.00 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 \$105.00 per month; according to Table 4, Appellant, who was 35 years old in 2021, from Middlesex County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$275.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that the premiums that they were paying for health insurance through the Health Connector increased after April 2021, and Appellant could no longer afford it. Appellant now has health insurance again through the Health Connector. For these reasons, the waiver of the penalty is approved.

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

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1843

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 8, 2022

**Decision Date:** July 21, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 8, 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 June 3, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 14, 2022
- Exhibit 4: Written Statement of Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-eight years old and is single with one dependent. He lives in Worcester County, Massachusetts.
2. Appellant is a sales representative. Appellant was unemployed from January 2021 until March 2021 and from November 2021 through the end of the year. He did not collect unemployment during his period of unemployment.
3. Appellant does have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-20210 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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, because Appellant’s income of \$27,944.00 was less than \$51,720.00. The monthly premium for health insurance available on the private market in Worcester for a 58 year old single person with one dependent was \$951.00. The tables reflect that Appellant could afford \$100.13 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$25,860.00 for a single person with one dependent. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$27,944.00 in 2021, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$100.13 monthly for health insurance. See 2021 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 \$951.00 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 is a sales representative. Appellant was unemployed from January 2021 until March 2021 and from November 2021 through the end of the year. He did not collect unemployment during his period of unemployment.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1869

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 15, 2022

**Decision Date:** July 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 July 15, 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 June 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 17, 2022
- Exhibit 4: Written Statement of Appeal Dated March 17, 2022

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single with one dependent. He lives in Hampshire County, Massachusetts.
2. Appellant works for his step-father as a machinist. No health insurance is offered. Appellant found out in 2021 that his significant other was pregnant. He purchased a house that needed a lot of work to repair it. The cost to repair the house was approximately \$50,000.00.
3. Appellant does have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$5,239.00, consisting of rent \$500.00, heat & light \$220.00, internet & cable 100.00, car payment \$709.00, car insurance \$190.00, car gas \$150.00, food \$1,000.00, credit card \$2,000.00 toiletries \$100.00, entertainment \$100.00, clothing \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-20210 under the grounds for Appeal " During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$91,624.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Hampshire for a 27 year old single person with one dependent was \$700.00. The tables reflect that Appellant could afford

\$610.82. 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-2021 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021 150 percent of the FPL was \$25,860.00 for a single person with one dependents. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$91,624.00 in 2021, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$610.82 monthly for health insurance. See 2021 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 \$700.00 monthly for coverage with one dependent *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 works for his step-father as a machinist. No health insurance is offered. Appellant found out in 2021 that his significant other was pregnant. He purchased a house that needed a lot of work to repair it. The cost to repair the house was approximately \$50,000.00.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1871

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 15, 2022

**Decision Date:** July 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 July 15, 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 June 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 17, 2022
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-two years old and is single. He lives in Hampden County, Massachusetts.
2. Appellant works in a car dealership. Appellant was covered under his mother's plan but she was laid off and he lost his insurance. Appellant lives at his mother's house and had to help his mother and his two younger siblings at home due to his mother's abusive relationship and lack of work.
3. Appellant does have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$895.00, consisting of rent \$200.00, internet & cable 100.00, cell phone \$40.00, car insurance \$305, gas \$200.00, food \$10.00, toiletries \$40.00.
5. The Appellant did submit a Statement of Grounds for Appeal-20210 under the grounds for Appeal " During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$38,769.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Hampden for a 21 year old single person was \$271.00. The tables reflect that Appellant could afford \$240.66 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-2021 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021 150 percent of the FPL was \$19,140.00 for a single person with zero dependents. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$38,769.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$240.66 monthly for health insurance. See 2021 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 \$271.00 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 works in a car dealership. Appellant was covered under his mother’s plan but she was laid off and he lost his insurance. Appellant lives at his mother’s house and had to help his mother and his two younger siblings at home due to his mother’s abusive relationship and lack of work.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1885

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 20, 2022

**Decision Date:** July 22, 2022

## **AUTHORITY**

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

## **JURISDICTION**

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

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 20, 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 June 8, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 14, 2022
- Exhibit 4: Written Statement of Appeal Dated March 14, 2022

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-four years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works in a restaurant. Appellant is laid off at the end of every year for approximately three months. Appellant's job was seriously affected by the Covid pandemic.
3. Appellant does not have health insurance in 2022 and did not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$1,494.00, consisting of rent \$800.00, heat & light \$83.00, cell phone \$110.00, Travel \$50.00, food \$480.00, clothing \$15.00 toiletries \$16.00,
5. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal " During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$29,680.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Essex for a 63 year old single person was \$401.00. The tables reflect that Appellant could afford \$103.91 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-2021 under the grounds for Appeal “ During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person with zero dependents. 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$29,690.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$103.91 monthly for health insurance. See 2021 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 \$401.00 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 works in a restaurant. Appellant is laid off at the end of every year for approximately three months. Appellant's job was seriously affected by the Covid pandemic.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1870

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 15, 2022

**Decision Date:** July 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 July 15, 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 June 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 17, 2022
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. She lives in Bristol County, Massachusetts. Appellant works multiple part-time jobs.
2. Appellant was able to obtain health insurance through her school application. She works multiple part-time jobs to make ends meet. She lost her full-time job and with it her health insurance.
3. Appellant does have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$1,540.00, consisting of rent \$400.00, cell phone \$20.00 car insurance \$100.00, car gas \$100.00, food \$500.00, credit card \$300.00, toiletries \$50.00, clothing \$50.00 entertainment \$50.00. Appellant has \$26,00.00 in student loans
5. The Appellant did submit a Statement of Grounds for Appeal-2021. "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$34,758.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Bristol County for a 27 year old single person was \$263.00. The tables reflect that Appellant could afford \$144.82 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 able to obtain health insurance through her school application. She works multiple part-time jobs to make ends meet. She lost her full-time job and with it her health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2021 “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$34,758.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$144.82 monthly for health insurance. See 2021 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 \$263.00 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 \$144.82 for health insurance coverage because of her income. Private insurance in the market place was \$263.00 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 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1844

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 8, 2022

**Decision Date:** July 21, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 8, 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 June 3, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 15, 2022
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-four years old and is married with three children. He lived in Essex County, Massachusetts but now lives in California.
2. Appellant's mother became ill and he had to leave his job because he had to travel to Mexico to take care of his mother, who died in May 2021. Appellant was on unemployment for the rest of 2021 was laid off from his job in 2020 due to Covid 19
3. Appellants did not have health insurance in 2021. Appellants currently live in California.
4. The Appellant's monthly expenses totaled \$5,500.00, consisting of rent \$2,700.00, heat & light \$300.00, internet & cable \$60.00, cell phone \$200.00, car insurance \$100.00. car gas \$100.00, food \$1,200.00, credit card \$50.00, clothing \$200.00 toiletries \$80.00, mother's expenses \$600.00 water bill \$65.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2021 under "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and " During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent"
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 2021. 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 2021.
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 \$46,781.00 was less than \$92,040.00. The monthly premium for health insurance available on the private market in Essex County for a 33 year old married person with three children was \$684.00. The tables reflect that Appellant could afford \$192.97 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 mother became ill and he had to leave his job because he had to travel to Mexico to take care of his mother, who died in May 2021. Appellant was on unemployment for the rest of 2021 was laid off from his job in 2020 due to Covid 19

The Appellant did submit a Statement of Grounds for Appeal-2021 under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” and “ During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent”

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 2021, 150 percent of the FPL was \$46,020.00 for a married person with three 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,781.00 in 2021, and Appellant’s filing status was married with three dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$192.97 Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$684.00 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 \$192.97 for health insurance coverage because of his income. Private insurance in the market place was \$684.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1867

**Appeal Decision** Appeal Denied

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

**Hearing Date:** July 15, 2022

**Decision Date:** July 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 July 15, 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 June 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 18, 2022
- Exhibit 4: Written Statement of Appeal Dated March 18, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-eight years old and is married. He lives in Essex County, Massachusetts.
2. Appellants lived in New Jersey and moved to New Hampshire and then moved to Massachusetts in 2020. Appellants felt that they did not have enough money to buy health insurance in 2020 or 2021. They do not have health insurance at the present time. They were saving to put a down payment on a home.
3. Appellants did not have health insurance in 2020, 2021 & do not have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$3,485.00, consisting of rent \$1,650.00, heat & light \$300.00, internet & cable \$95.00, cell phone \$130.00, car payment \$460.00, car insurance \$150.00, car gas \$200.00, food \$400.00, credit card \$100.00, clothing \$30.00 toiletries \$50.00. Appellants owe \$12,000.00 in student loans.
5. The Appellant did submit a Statement of Grounds for Appeal-2021 under "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent" and "Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$84,625.00 was more than \$51,720.00. The monthly premium for health insurance available on the private market in Essex County for a 27 year old married person. Was \$526.00. The tables reflect that Appellant could afford \$564.16 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-2021 under “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” and “ During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent” and “Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”

Appellants lived in New Jersey and moved to New Hampshire and then moved to Massachusetts in 2020. Appellants felt that they did not have enough money to buy health insurance in 2020 or 2021. They do not have health insurance at the present time. They were saving to put a down payment on a home.

The Appellant did submit a Statement of Grounds for Appeal-2021 under “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” and “ During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent” and “Other. During 2021 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. *See* Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$51,720.00 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 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$84,625.00 in 2021, 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 2021 Massachusetts Schedule HC, Appellant could afford to pay \$564.16 Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$526.00 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 \$564.16 for health insurance coverage because of his income. Private insurance in the market place was \$526.00 per month, which is less than he could afford. On these facts, I find that Appellant has not 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 not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **DENIED**, and the 2021 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1908

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 26, 2022

**Decision Date:** July 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 July 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 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 June 15, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 21, 2022
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-six years old and is married with one child. He lives in Plymouth County.
2. Appellant was laid off from his job in January 15, 2021. His health insurance was cancelled. Appellant's wife's company did not offer health insurance. Due to the uncertainty of his unemployment, and the expense of health insurance Appellants purchased health insurance for their daughter but not themselves. Appellant finally returned to employment in October 2021 but was not eligible for health insurance until January 2022. Appellant had to use \$27,000.00 from their 401K for expenses in 2021.
3. Appellants do have health insurance in 2022.
4. The Appellant's monthly expenses totaled \$6,698.00, consisting of mortgage \$2,063.00, heat & light \$250.00, internet & cable \$120.00, cell phone \$140.00, car payment \$900.00 car insurance \$200.00, car gas \$300.00, food \$1,000.00, credit card 100.00, clothing \$100.00 water bill \$35.00, child- care \$1,325.00, student loan \$190.00. The Appellant took out \$27,000.00 from their 401K plans.
5. The Appellant did submit a Statement of Grounds for Appeal-2021 under "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
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 \$130,923.00 was more than \$65,160.00. The monthly premium for health insurance available on the private market in Plymouth County for a 36 year old married person with one child was \$698.00. The tables reflect that Appellant could afford \$872.82 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)



## ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was laid off from his job in January 15, 2021. His health insurance was cancelled. Appellant’s wife’s company did not offer health insurance. Due to the uncertainty of his unemployment, and the expense of health insurance Appellants purchased health insurance for their daughter but not themselves. Appellant finally returned to employment in October 2021 but was not eligible for health insurance until January 2022. Appellant had to use \$27,00.00 from their 401K for expenses in 2021.

The Appellant did submit a Statement of Grounds for Appeal-2021 under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$32,580.00 for a married person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$130,923.00 in 2021, and Appellant’s filing status was married with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could

afford to pay \$872.82 Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$698.00 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 \$872.82 for health insurance coverage because of his income. Private insurance in the market place was \$698.00 per month, which is less than he could afford. Appellant was unemployed for most of 2021 and had to draw down \$27,000.00 from his 401K plan. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1911

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** July 26, 2022

**Decision Date:** July 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 July 26, 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 June 15, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 10, 2022
- Exhibit 4: Written Statement of Appeal Dated March 20, 2022

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-seven years old and is married with two children. His wife is thirty-five years old. He lives in Middlesex County, Massachusetts.
2. Appellants moved from Connecticut to Massachusetts in 2021. The Appellant's wife had the health insurance for the family through her employer and contacted the employer before they moved to find out if the insurance the family had would be sufficient in Massachusetts and was informed that the insurance would be sufficient. It was only after the family had moved to Massachusetts that they were informed that their coverage did not meet the Massachusetts requirements due to a large deductible. Appellants now have insurance through the husband's employer.
3. Appellants do have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 under "During 2021, you purchased health insurance that didn't meet credible 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."
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 2021. 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 2021.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellants moved from Connecticut to Massachusetts in 2021. The Appellant's wife had the health insurance for the family through her employer and contacted the employer before they moved to find out if the insurance the family had would be sufficient in Massachusetts and was informed that the insurance would be sufficient. It was only after the family had moved to Massachusetts that they were

informed that their coverage did not meet the Massachusetts requirements due to a large deductible. Appellants now have insurance through the husband's employer.

The Appellant did submit a Statement of Grounds for Appeal-2021 under "During 2021, you purchased health insurance that didn't meet credible 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."

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 2021, 150 percent of the FPL was \$39,300.00 for a married person with two dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2021 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 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

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 2021. 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 2021 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1739

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** May 13, 2022

**Decision Date:** July 8, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 13, 2022. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was left open until June 10, 2022, for the Appellant to submit additional documentary evidence. The Appellant submitted additional evidence on May 24, 2022, and the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 2/22/22 Appeal (14 pages)
- Exhibit 3: 4/8/22 Hearing Notice (2 pages)
- Exhibit 4: 5/13/22 Open-Record Request (1 page)
- Exhibit 5: 5/24/22 Open-Record Response (8 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$60,612. The Appellant turned sixty years old in 2021. (Exhibit 1)
2. The Appellant resided in Barnstable County in 2021. (Exhibit 1)
3. The Appellant appeals from the assessment of a twelve-month penalty against her on her 2021 income tax return. (Appellant's testimony; Exhibit 2)
4. The Appellant had health insurance coverage that met MCC standards from January 2021 through May 2021 and from July 2021 through December 2021. (Exhibit 5)

### **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.

Residents who lose their health insurance coverage during the year are allowed a three-month grace period to obtain new coverage before any tax penalty is assessed. In this case, the Appellant has submitted convincing documentary evidence that she had health insurance coverage that met MCC standards in 2021 in every month except for the month of June. Therefore, I conclude that no tax penalty should be assessed against the Appellant for 2021.

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1748

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** May 19, 2022

**Decision Date:** July 11, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 19, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until June 20, 2022, for the Appellant to submit additional evidence. On June 6, 2022, 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 2021 Schedule HC (1 page)
- Exhibit 2: 3/1/22 Appeal (21 pages)
- Exhibit 3: 4/11/22 Hearing Notice (2 pages)
- Exhibit 4: 6/4/22 Open-Record Response (12 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$103,538. (Exhibit 1)
2. The Appellant turned thirty-three years old in 2021. (Exhibit 1)
3. The Appellant resided in Suffolk County in 2021. (Exhibit 1)
4. The Appellant appeals from the assessment of a twelve-month penalty against him on his 2021 income tax return, checking off on the appeal form, as the basis for his appeal, that purchasing health insurance coverage for 2021 would have caused him a serious deprivation of basic necessities in 2021; and, "Other," due to the overwhelming uncertain nature of his finances during 2021. (Exhibit 2; Appellant's testimony).
5. The Appellant had health insurance coverage that met MCC standards through his employer at the start of 2021. (Appellant's testimony)

6. The Appellant's employer discharged him at the end of February, and the Appellant contested the discharge. (Appellant's testimony; Exhibit 4)
7. The Appellant's employer-sponsored coverage continued through October 2021. (Appellant's testimony; Exhibit 4)
8. The Appellant had employer-sponsored coverage in November and December 2021 through his new employer. (Appellant's testimony; Exhibit 4)

**ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant presented clear and persuasive evidence through documents and testimony that he maintained health insurance coverage that met MCC standards throughout 2021.

Accordingly, the Appellant's twelve-month penalty for 2021 shall be waived in full.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1781

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** June 10, 2022

**Decision Date:** July 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 at the hearing, which was held by telephone, on June 10, 2022. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was left open until July 11, 2022, for the Appellant to submit additional documentary evidence. The Appellant did not submit any additional evidence, and the record was closed on July 11, 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 2021 Schedule HC (1 page)
- Exhibit 2: 3/7/22 Appeal (6 pages)
- Exhibit 3: 5/6/22 Hearing Notice (2 pages)
- Exhibit 4: 6/10/22 Open-Record Request for additional documentary evidence (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$27,280. The Appellant turned twenty-five years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against him on his 2021 income tax return, checking off his appeal form as the basis for his appeal that "purchasing health insurance coverage would have caused him a serious deprivation of basic necessities." (Appellant's testimony; Exhibit 2)
3. The Appellant moved from Rhode Island to Massachusetts in January 2021 and resided in Norfolk County. (Exhibit 1; Appellant's testimony)
4. During 2021, the Appellant worked a regular job in a restaurant in Massachusetts and, on his days off, worked at a part-time job in Rhode Island. (Appellant's testimony)
5. The Appellant's Massachusetts employer did not offer health insurance coverage. (Appellant's testimony)

6. The Appellant is diabetic and spent \$1,641/monthly in 2021 for insulin and testing supplies to address this condition. (Appellant’s testimony)
7. The Appellant has health insurance coverage now. (Appellant’s testimony)
8. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance as his 2021 income was less than \$38,280 for a family size of one.
9. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$95.42 for health insurance coverage in 2021.
10. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to him for a monthly premium of \$263.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

As the Appellant did not move to Massachusetts until January 2021, the individual mandate did not apply to him until April 1, 2021. At issue here are the nine months from April 2021 through December 2021, when the Appellant failed to have health insurance coverage.

I find credible the Appellant’s testimony that he spent a very significant portion of his income in 2021 to purchase the insulin and testing supplies that he regularly required to treat his diabetic condition. This monthly outlay of \$1,641 left the Appellant with just over \$600/monthly to pay for basic necessities, based on his federal AGI of \$27,280. While the Appellant qualified for government-subsidized health insurance coverage in 2021 for a monthly premium of \$95, the Appellant could not have afforded to pay this much for coverage in 2021.

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1819

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** June 24, 2022

**Decision Date:** July 15, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

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

- Ex. 4—2021 Form 1095-B for the appellant's wife and children

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 38-years-old, his wife is 36-years-old, and they have two minor children.<sup>2</sup> In 2021, the wife and two children had minimum creditable coverage (MCC) health insurance from January through December. (Testimony, Ex. 4)
2. The appellant, his wife and their children had health insurance with MassHealth for all of 2020 and 2021. The wife and children received a Form 1095-B indicating full-year coverage for 2021. (Testimony, Ex. 4)

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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 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

<sup>2</sup> The appellant's wife had health insurance in 2021 and was not assessed a penalty.

3. The appellant did not receive a Form 1095-B for 2021 and contacted MassHealth for an explanation. He was advised that “he didn’t need one” in order to file his tax return. (Testimony)
4. The appellant and his wife were both employed in 2021. The husband’s employer did not offer health insurance. The wife became eligible for employer health insurance in October, 2021. (Testimony)
5. The appellant reported an adjusted gross income of \$48,365.00 on his jointly filed 2021 federal tax return, and reported that he was married with two dependents. (Ex. 2)
6. The appellant, his wife and their children have been enrolled in insurance with MassHealth since the beginning of 2022. (Testimony)

In addition to the foregoing, I take administrative notice of the 201 21chedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), but did not check off a specific ground for the appeal. He indicated on his statement that he did not receive a Form 1095-B. 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had health insurance for the entire year, he was assessed and is appealing a penalty of twelve months based on the information provided on his Schedule HC indicating that he was uninsured.

The appellant testified credibly that he and his wife had health insurance through MassHealth throughout 2021. He testified that his wife and children received 2021 Form 1095-Bs indicating that they all had full-year coverage. He testified that he did not receive the same form and contacted MassHealth who advised him that he did not need the form to file his tax return.

Health insurance coverage for the appellant’s wife was corroborated by a Form 1095-B indicating that she had full-year coverage in 2021. The record was left open at the conclusion of the hearing for proof of the appellant’s coverage with MassHealth, but nothing was submitted in response to that portion of the request. It is not known why he was unable to obtain any documentation from MassHealth evidencing coverage or why he was advised that he did not need any documentation to file his tax return.

Based on the appellant’s failure to produce any documentation to support his claim that he had health insurance in 2021, he should be subject to a penalty. However, the penalty will be waived for the following reason. Inasmuch as the appellant’s wife and children all had insurance through MassHealth, it seems more likely than not that the appellant was similarly insured through MassHealth. His joint adjusted gross income of \$48,365.00 is between 150% of the FPL (\$39,300.00) and 300% of the FPL (\$78,600.00) for a family of four according to Tables

One and Two of Income Levels at 150% and 300% of the FPL, thereby underscoring the likelihood that he had coverage with MassHealth. Furthermore, given the family's income, the imposition of a penalty could create or exacerbate a financial hardship. As such, considering the totality of the circumstances, it is concluded that the appellant should not be assessed a penalty.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

**ADDENDUM**

The appellant is advised not to rely on a similar extension of leniency should he be assessed and appeal a penalty for failure to obtain health insurance in the future.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-1822

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** June 24, 2022

**Decision Date:** July 11, 2022

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

Ex. 1—Statement of Grounds for Appeal—2021

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 37-years-old, is single, and does not have children. In 2021, he had health insurance from August through December. (Testimony, Ex. 1)
2. The appellant resided in Mexico from January through mid-July, 2021. He moved to Massachusetts in mid-July for work and resided in the state for the remainder of the year. (Testimony)
3. The appellant commenced employment in August, 2021 and enrolled in employer health insurance from August 1, 2021 through the end of the year. (The employer's health insurance was offered through one insurance provider from August through November, and through a second provider for the month of December.) (Testimony, Ex. 1)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant mistakenly indicated on his 2021 Schedule HC that he was a full-year resident of Massachusetts. He also mistakenly indicated that he was insured from September through December, instead of from August through December. (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), but did not check off a specific ground for the appeal. He also submitted two 2021 Form 1095-Bs which indicated that he had health insurance from August through November through one insurance provider, and insurance for the month of December through another provider. 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant did not reside in Massachusetts until mid-July and was enrolled in insurance from August through December, he was assessed and is appealing a penalty of five months based on the information he provided on his Schedule HC indicating that he was a full-year resident of the state with coverage from September through December.

The appellant testified credibly that he moved to Massachusetts from Mexico in mid-July and began a new job in August. He testified that he enrolled in employer health insurance from August through December. Finally, he testified that the errors he made on his Schedule HC were attributable to the fact that he was a newcomer to the state and had never filed a state tax return or a Schedule HC.

The appellant submitted two Form 1095-Bs which indicate coverage for the months of August through November issued by Allways Health Partners which is based in Massachusetts, and coverage for the month of December issued by Blue Cross and Blue Shield of Massachusetts. The forms also indicate that he worked for a Massachusetts-based employer. The form in question is used to report certain information to the Internal Revenue Service (IRS) and to taxpayers about individuals who are covered by minimum essential coverage (MEC). On its own, the form does not establish that the appellant was enrolled in minimum creditable coverage (MCC) insurance, the standard required by the state for all residents who obtain health insurance. Insurance that meets MEC standards under the Affordable Care Act does not necessarily meet with MCC standards. However, information on the forms establish that the insurance was issued by two state insurers and that the employer is based in the state. As such, since most state insurers issue plans in compliance with MCC standards, it is almost certain that his insurance complied with state requirements. Hence, it is concluded that the appellant provided substantial and credible evidence which established that he was enrolled in MCC health insurance for the months of August through December.

Based on the totality of the evidence, it is concluded that since the appellant was not a resident of the state until mid-July and since he was enrolled in MCC insurance from August through December, he is not subject to a penalty for any part of the year. His request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit