

**FINAL APPEAL DECISION**

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 17, 2024

**Decision Date:** Wednesday, July 24, 2024

---

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on July 17, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

# **CONNECTOR APPEALS UNIT**



Exhibit 3 Correspondence from the Appellant.

1 page

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 26 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$67,228.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 495% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a Machine Operator at Manufacturing Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of \$396.00. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$67,228.00 was deemed able to pay \$448.19 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 26 and living in Worcester County, could have purchased private insurance for \$312.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

# CONNECTOR APPEALS UNIT



11. In 2023, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$750.00	<u>Car Insurance</u>	\$250.00	<u>Medical/Dental</u>	\$0.00
<u>Clothing</u>	\$50.00	<u>Gas (Car)</u>	\$180.00	<u>Car Repairs</u>	\$250
<u>Cable/Internet</u>	\$100.00	<u>Food</u>	\$550.00	<u>Child Support</u>	\$300
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$185.00	<u>Gas/Transportation Costs</u>	\$180
<u>Electricity</u>	\$125.00	<u>Household &amp; Toiletries</u>	\$50.00	<u>Car</u>	\$150.00
				<u>Total:</u>	\$2,940.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$5,602.33. His necessary expenses were determined to be \$2,940.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,504.00 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

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

a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2023.

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

## **CONNECTOR APPEALS UNIT**



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

16. The Appellant testified that the Health Insurance offerings, including from his employer and the private market, were too expensive. (Appellant's Testimony).
17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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

Appellant had no health insurance in 2023. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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

The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of \$396.00. (Appellant's Testimony) The Appellant was

## CONNECTOR APPEALS UNIT



employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by his employer was \$396.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income.

According to Massachusetts state-specific guidelines, the health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 8.00% of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 7.07% of the employee's income. Because the appellant was employed and offered health insurance by their employer during the time of the tax penalty, he is blocked from obtaining subsidized insurance through Connector Care.

### ConnectorCare Eligibility

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

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program.

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was

## CONNECTOR APPEALS UNIT



494.69% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold. If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$67,228.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$448.19 per month; according to Table 4, Appellant, who was 26 years old in 2023, lived in Worcester County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,602.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$448.19 per month), the Appellant could have afforded private health insurance with a premium of \$312.00 per month. (2023 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

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

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer and the private market, in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$2,940.00. With a monthly surplus of \$1,504.00 between income and expenses, and considering the appellant's private health insurance premium of \$312 per month, it appears that affording healthcare coverage should be manageable for the Appellant. The monthly surplus of \$1,504.00 is more than sufficient to cover the \$312 monthly premium, leaving \$1,192.00 for other

# **CONNECTOR APPEALS UNIT**



discretionary expenses or savings. Therefore, based on the financial information provided, the Appellant could have afforded the private health insurance premium without experiencing undue financial hardship.

It is noted that the Appellant's income in the year in question was higher than anticipated due to unexpected overtime work. (Appellant's Testimony). While this does not change the outcome of the current appeal, it is important to remind the Appellant that income fluctuations can affect eligibility for subsidized healthcare plans. If the Appellant experiences a change in circumstances relating to income, whether an increase or decrease, they have the right to contact the Health Connector and request a reassessment of their income eligibility.

Should the Appellant be able to demonstrate a reduction in income to the Health Connector in the future, they may become eligible for subsidized healthcare plans. This could potentially result in significant cost savings and make healthcare coverage even more affordable. While this information cannot be considered for the current appeal, it is crucial for the Appellant to be aware that they can work with the Health Connector based on their current income situation to potentially gain access to more affordable healthcare plans in the future.

## **Conclusion**

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

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

## **PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

## **CONNECTOR APPEALS UNIT**



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

Hearing Officer

cc. Connector Appeals Unit

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



**FINAL APPEAL DECISION**

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: April 24, 2024

Decision Date: Monday, June 10, 2024

-----

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on April 24, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

# CONNECTOR APPEALS UNIT



Exhibit 4: 2023 Form MA 1099 HC (reviewed on Monday, June 10, 2024) 1 page

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 20 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$24,077.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 177% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 2B (150.1-200% FPL) for ConnectorCare.
4. In 2023, the Appellant was enrolled as a Student at a State University working Part Time during the year. (Appellant's Testimony).
5. The Appellant does currently have Health Insurance. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$24,077.00 was deemed able to pay \$56.18 per month for health insurance, or 2.80% of her income. According to Table 4, Appellant, age 20 and living in Bristol County, could have purchased private insurance for \$312.00 per month.
8. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
9. Appellant's statement of grounds for appeal was on the basis of:
  - a. No reason was selected on the statement of grounds. (Exhibit 2.)
  - b. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government

## **CONNECTOR APPEALS UNIT**



subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance. (Testimony of Appellant, Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
12. The Appellant testified that she was enrolled in a health insurance plan that met the minimum creditable coverage standards through her stepfather's Blue Cross Blue Shield policy. (Appellant's Testimony). However, the Appellant also stated that she prepared her own taxes for the first time this year and was unable to procure the requisite 1099-HC form to substantiate her enrollment in a qualifying health insurance plan.
13. In light of the Appellant's testimony and the absence of the necessary documentation, this Hearing Officer offered to hold the record open for a period of 60 days to afford the Appellant an opportunity to obtain the 1099-HC form from her stepfather and his health insurance provider. This extension is intended to provide the Appellant with sufficient time to gather the evidence needed to corroborate her assertion that she had minimum creditable coverage during the relevant tax year.
14. Furthermore, this Hearing Officer advised the Appellant to visit the Health Connector's website to access additional information regarding the 1099-HC form. The Appellant was provided with the specific web address for the tax documents section of the Health Connector's website to ensure that she has the resources necessary to understand the requirements for demonstrating minimum creditable coverage.
15. It is the determination of this Hearing Officer that the Appellant be granted a 60-day extension, from the date of her Appeal Hearing, to obtain and submit the 1099-HC form to verify her enrollment in a qualifying health insurance plan.
16. On Monday, June 10, 2024, this Hearing Officer reviewed the documentation submitted by the appellant regarding the open record, which remained open for 60 days. The appellant provided her 2023 Form MA 1099-HC, indicating her enrollment in a full year of minimum creditable coverage, as she had testified. The form confirmed her date of birth and mailing address, matching the

## CONNECTOR APPEALS UNIT



information provided by the Health Connector. Given this confirmation of her full year of coverage, this new evidence will be considered.

17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority.

The Appellant was unaware of the individual mandate, according to her testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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

Appellant had no health insurance in 2023. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Open Records Request

# CONNECTOR APPEALS UNIT



During the administrative appeal hearing on April 24, 2024, the appellant testified about her ability to provide documentation supporting her main reason for appealing: she indicated that she was covered by minimum creditable coverage health insurance through her stepfather’s plan with Blue Cross Blue Shield.

Given this, I offered to keep the record open for 60 days, allowing her time to consult with her stepfather and his health insurance provider to obtain and submit the necessary form. I also directed her to visit the Health Connector’s website for more information on the 1099-HC form, providing the specific section for tax documents.

On Monday, June 10, 2024, I reviewed the documentation submitted by the appellant. She provided her 2023 Form MA 1099-HC, confirming her enrollment in a full year of minimum creditable coverage, as she had testified. The form verified her date of birth and mailing address, matching the information from the Health Connector. Given this confirmation, I am taking this new evidence into consideration.

As a result, I am waiving the penalty based on this new evidence, which is marked as Exhibit 4.

## Conclusion

The appellant has demonstrated that she had minimum creditable coverage for the full year of 2023, as confirmed by her 2023 Form MA 1099-HC. Consequently, the appellant’s 12-month penalty is waived.

Appellant should note that the waiver of her penalty is based upon the facts I have determined to be true for her 2023 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failing to have health insurance that 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance

## **CONNECTOR APPEALS UNIT**



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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-210

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 11, 2024

**Decision Date:** July 29, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellants Husband (“Appellants” or “Appellant) appeared at the hearing, which was held by telephone on July 11, 2024. The Appellant’s Spouse did not appear. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2023 Signed by Appellant on 3/9/2024. (2 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 6/6/2024. (2 PP).

The record was left open until July 29, 2024, for the Appellant to submit proof of documentation for out of pocket medical and dental payments. The Appellant submitted the following documents:

- Exhibit 4: Statement from ER visit in March, 2023 and reflecting payment (2PP).
- Exhibit 5: Statement from Credit Card reflecting Dental payment in 2023 (1 P).

The record shows, and I so find:

1. The Appellants, married filing jointly filed a 2023 Massachusetts tax return filed with 1 dependent and a family size of 3, were ages 52 and 48 in 2023, lived in Nantucket County. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$96,705. (Exhibit 1).

3. The Appellants, who are each penalized for twelve (12) months, testified they were not eligible for Employer Sponsored Insurance (“ESI”). (Appellant Husband Testimony).
4. The Appellant Spouse worked part time in Massachusetts and Florida in seasonal positions where her approximate net earnings were between \$300-\$500 per week in Massachusetts for three (3) months and \$400-\$500 a week in Florida. (Exhibit 1, (Appellant Husband Testimony).
5. The Appellant Husband’s approximate net earnings were between \$1,100 per week in Massachusetts. (Exhibit 1, Appellant Husband Testimony).
6. The Appellant Husband testified they investigated Connectercare in 2023 but were not eligible because of lawful presence issues. (Appellant Husband Testimony).
7. According to Table 3 Appellants could have afforded \$644.70 per month for health insurance in 2023. According to Table 4 Appellants could have purchased a plan insurance for \$1,698.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellants would not have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was more than 300% of the poverty level, which was \$69,090.00 for a family of three (3). (See Table 2 of Schedule HC 2023).
9. The Appellant Husband testified their monthly living expenses in 2023 included: Rent and Utilities: \$3,000, Cell Phone: \$120; and Food \$800, totaling \$3,920. (Appellant Husband Testimony, Exhibit 2).
10. The Appellants submitted documents reflecting testified they had out of pocket medical and dental payments of approximately \$11,000 as the documents reflect payments of \$1,554.93 medical expenses and dental expense of \$1,500. (Appellant Husband Testimony, Exhibits 2,4 and 5).
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellants have been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to them because they were unable to afford coverage because of a hardship (Testimony, (Exhibits 2 and Appellant Husband Testimony).

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



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

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

The evidence provided by the Appellants established that their income for 2023, \$96,705 was more than 300% of the federal poverty level, which for 2023 was \$69,090 for a family of three (3). According to Table 3 of Schedule HC for 2023, the Appellants could have afforded \$644.70 per month. According to Table 4, Appellant, ages 52 and 48 in Nantucket County during the time they were being penalized for not having insurance, could have purchased an family insurance plan for \$1,698.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellants had access to affordable employer health insurance ("ESI") in 2023. The Appellant Husband testified that they were not offered ESI by their respective employes, as the Appellant Spouse worked in part time jobs, and the Appellant Husband worked for a small company. (Testimony, Exhibit 2). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellants were not eligible for ESI (Appellant Testimony).

Given that ESI and affordable private insurance was not available to the Appellants during the time they were being penalized, the Appellant's are not subject to a penalty.

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

**PENALTY ASSESSED**

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

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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



# **CONNECTOR APPEALS UNIT**



Exhibit 3 Correspondence from the Appellant.

1 page

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 39 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$67,519.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 497% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a full-time Licensed Practical Nurse (LPN) at a Nursing/Rehabilitation Facility from January to mid-February. After that period, the Appellant worked on a per diem basis. (Appellant's Testimony)
5. The Appellant was employed for the full year in 2023, initially working full-time from January to mid-February and then transitioning to a per diem basis for the remainder of the year. (Appellant's Testimony). There were no job disruptions during this period.
6. The Appellant was offered health insurance in 2023, by her employer, at an approximate monthly cost of \$660.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant, who has no dependents, with an adjusted gross income of \$67,519.00 was deemed able to pay \$450.13 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 39 and living in Norfolk County, could have purchased private insurance for \$335.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC

# CONNECTOR APPEALS UNIT



for 2023).

11. In 2023, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,650.00	<u>Car Insurance</u>	\$180.00	<u>Medical/Dental</u>	\$185.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>Car</u>	\$0.00
<u>Cable/Internet</u>	\$60.00	<u>Food</u>	\$330.00	<u>Clothing</u>	\$40.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$50.00	<u>Gas/Transportation Costs</u>	\$176
<u>Electricity</u>	\$80.00	<u>Household &amp; Toiletries</u>	\$30.00	<u>Car Repairs</u>	\$341.67
				<u>Total:</u>	\$3,122.67

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$5,626.58. Her necessary expenses were determined to be \$3,122.67 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,339.03 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

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

a. During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

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

---

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

## **CONNECTOR APPEALS UNIT**



other natural or man-made disaster in 2023 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant testified that the health insurance offerings were prohibitively expensive. Additionally, she testified that her mental health issues significantly reduced her work hours and earning capacity. Consequently, she is seeking leniency from the Health Connector. (Appellant's Testimony).
17. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to her testimony.

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

Appellant had no health insurance in 2023. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

## Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2023, by her employer, at an approximate monthly cost of \$660.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$660.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income.

The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 8.00% of the Appellant-employee's projected household modified adjusted gross income, as per Massachusetts state-specific guidelines. The employer's offering was 11.73% of the employee's income. Since the appellant was employed and had access to employer-sponsored health insurance, which was deemed too expensive, she would not be blocked from obtaining subsidized insurance through Connector Care.

## ConnectorCare Eligibility

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

## CONNECTOR APPEALS UNIT



exceeds 8.00% of their household income and is deemed not affordable under the ConnectorCare guidelines, the Appellant may qualify for ConnectorCare or potential Advanced Premium Tax Credits (APTC).

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program due to their income however, at almost 500% of the Federal Poverty Level. If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

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

A lack of supporting documentation notably hampers the Appellant's ability to substantiate their claims relating to their efforts to apply via the Health Connector for Health Insurance and appears indicative of insufficient engagement with the Health Connector's processes. The Statement of Grounds form requests that appellants provide any and all available documentation to substantiate their claims; in this instance, the Appellant failed to provide any.

In this case, the appellant asserted that the cost of available health insurance plans was unaffordable. However, these claims lack credibility due to the absence of supporting documentary evidence and the vague nature of the appellant's testimony. The appellant's contention of engaging with the Health Connector or the unified application process and facing unusually high costs was made without specific details, undermining the credibility of the claim. Publicly accessible information on the Health Connector's website, specifically the costs for private market health insurance premiums detailed in the 2023 Massachusetts Schedule HC Health Care instructions form, contradicts the appellant's vague statements of facing '\$600' per month in costs for Health Insurance from the Health Connector. Without corroborating evidence, which the appellant failed to provide, the claim that the health insurance costs were unmanageable does not hold up under scrutiny.

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during



## CONNECTOR APPEALS UNIT



2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$67,519.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$450.13 per month; according to Table 4, Appellant, who was 39 years old in 2023, lived in Norfolk County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$335.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,626.58 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$450.13 per month), the Appellant could have afforded private health insurance with a premium of \$335.00 per month. (2023 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

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

### Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$3,122.67. With a monthly surplus of \$1,339.03 between income and expenses, and considering the lowest monthly premium for the Appellant's qualifying private market health Insurance of \$335, based on their income, it appears that affording a healthcare plan should be manageable for the Appellant.

### Conclusion

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

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2023 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

# **CONNECTOR APPEALS UNIT**



## **PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Hearing Officer

cc. Connector Appeals Unit

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

**FINAL APPEAL DECISION**

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

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

**Hearing Date:** December 12, 2023

**Decision Date:** Thursday, June 20, 2024

---

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 12, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

## **CONNECTOR APPEALS UNIT**



Exhibit 4	Excellus Essential Plan Insurance Card (effective date: 12/12/2022)	1 page
Exhibit 5	Lease agreement (dated September 1st 2022 through March 31st 2022) - Open Records Filing from Appellant	28 pages
Exhibit 6	Health Insurance Benefits Summary Information - Open Records Filing from Appellant	15 pages

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 31 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$32,725.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 241% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Business Analyst in a full-time capacity. (Appellant's Testimony).
5. The Appellant testified that she experienced periods of unemployment during the year 2022, and was employed during the following months: April-through the end of the year 2022
6. Appellant was not offered health insurance by her employer.
7. The Appellant does currently have Health Insurance as of December of 2023 through Masshealth. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no

# CONNECTOR APPEALS UNIT



dependents, with an adjusted gross income of \$32,725.00 was deemed able to pay \$136.35 per month for health insurance, or 5.00% of her income. According to Table 4, Appellant, age 31 and living in Suffolk County, could have purchased private insurance for \$290.00 per month.

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

<u>Rent or Mortgage</u>	\$750.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$700.00	<u>Credit Cards</u>	
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$35.00	<u>Other:</u>	
<u>Electricity</u>	\$0.00	<u>Household &amp; Toiletries</u>	\$40.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$1,625.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$2,727.08. Her necessary expenses were determined to be \$1,625.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$655.06 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
  - a. No specific reason was indicated in the Appellant's Statement of Grounds (Testimony of Appellant, Exhibit 2).
  - b. The appellant provided correspondence (See Exhibit 3) detailing two specific reasons for her failure to obtain insurance:

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

## CONNECTOR APPEALS UNIT



- i. Lack of awareness regarding the individual mandate following her relocation to Massachusetts in April 2022.
    - ii. Prior health insurance coverage, which had been procured in the state of New York, that expired in December 2022.
  - c. In support of the latter claim, the appellant submitted as evidence a health insurance card (Exhibit 4) demonstrating her previous enrollment in an Essential Benefits Plan with the healthcare provider "Excellus" (Appellant's Testimony and Exhibit 4).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. During the hearing, the Appellant provided additional testimony regarding her health insurance status. The Appellant confirmed her lack of health insurance coverage following her relocation to Massachusetts in April 2022. No documentation was provided to substantiate the Appellant's Massachusetts residency.
17. The Appellant disclosed that she maintained health insurance coverage through a New York State plan prior to her relocation. (Appellant's Testimony). She testified to her belief that she could continue utilizing her New York insurance for medical appointments by traveling back to Syracuse, her former place of residence. This misconception informed her decision to forego immediate procurement of health insurance in Massachusetts upon relocation.
18. The record was left open on Tuesday, December 12, 2023, for a period of 60 days. This extension was granted to allow the Appellant the opportunity to obtain and submit residency documentation to the Health Connector.
19. The Appellant provided additional documentation to support her claims:
- a. A lease agreement for a residence in Syracuse, New York, with a term commencing on or about September 1, 2022, and concluding on March 31, 2022 (Exhibit 5).
  - b. A summary of benefits and coverage for an Excellus BCBS Essential Plan Number 4 (Exhibit 6).

# **CONNECTOR APPEALS UNIT**



- i. It should be noted that the coverage period indicated on this document spans from January 1, 2024, through January 31, 2024, which appears to be inconsistent with the timeframe under consideration in this appeal.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority.

The Appellant was unaware of the individual mandate, according to her testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013)

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

Appellant has been accused of having no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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

## CONNECTOR APPEALS UNIT



Appellant was not offered health insurance by her employer at any point in 2022. (Appellant's Testimony). In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 5.00%.

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

### ConnectorCare Eligibility

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

The Appellant is eligible for a ConnectorCare plan with \$0 or low monthly premiums, low out-of-pocket costs, and no deductibles. Their income is 240% of the Federal Poverty Level. Based on this, they may qualify for Plan Type 3A. To qualify, the Appellant must also live in Massachusetts, be a U.S. citizen or lawfully present immigrant, not have affordable employer insurance, not be incarcerated, and not qualify for Medicare or MassHealth.

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

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



# CONNECTOR APPEALS UNIT



they meet the necessary criteria.

## Appellant's Engagement with the Health Connector

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

## Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$32,725.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$136.35 per month; according to Table 4, Appellant, who was 31 years old in 2022, lived in Suffolk County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$290.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,727.08 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$136.35 per month), private health insurance with a premium of \$290.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

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

## Financial Hardship Analysis

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

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,625.00. With a monthly difference of \$655.06 between income and expenses, it appears that affording a healthcare plan should be manageable for the Appellant.

## Open Records Findings

After reviewing the documentation submitted during the open record period, I was able

# **CONNECTOR APPEALS UNIT**



to make the following determinations:

The lease provided by the Appellant indicates residence in the state of New York through the end of March 2022. Consequently, it is determined that the Appellant's Massachusetts residency commenced in April 2022. In light of this residency determination and considering the three-month grace period<sup>2</sup> afforded to new residents for obtaining insurance, as previously referenced, the original 12-month penalty is deemed inappropriate. As a result, the penalty shall be reduced to 6 months, based on the revised residency timeline.

It is noted that while the Appellant provided information about their Health Insurance benefits, the documentation pertains to the 2024 coverage year, not the tax year in question. As such, it is not possible to confirm whether the Appellant's coverage during the relevant tax year met minimum creditable coverage standards.

## **Conclusion**

While the Appellant has not demonstrated a financial hardship as defined by law (see 956 CMR 6.08(1)(e)), the penalty has been reduced based on the revised residency timeline and applicable grace period. Therefore, a six-month penalty is upheld.

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

## **PENALTY ASSESSED**

Number of Months Appealed:            12            Number of Months Assessed:            6

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

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

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

---

<sup>2</sup> There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be for three months.

## **CONNECTOR APPEALS UNIT**



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

Hearing Officer

cc. Connector Appeals Unit

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

## FINAL APPEAL DECISION

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

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

**Hearing Date:** December 12, 2023    **Decision Date:** Thursday, June 20, 2024

---

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on December 12, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Open Records Submission: 2022 Form MA 1099-HC	1 page

# **CONNECTOR APPEALS UNIT**



Exhibit 4 Correspondence from the Appellant

1 page

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 60 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Hampshire County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$37,532.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 276% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 3B (250.1-300% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$37,532.00 was deemed able to pay \$156.38 per month for health insurance, or 5.00% of her income. According to Table 4, Appellant, age 60 and living in Hampshire County, could have purchased private insurance for \$466.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. Appellant's statement of grounds for appeal was on the basis of:

## **CONNECTOR APPEALS UNIT**



- a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The Appellant indicated that they did have insurance in the hearing question. (Appellant's Testimony).
15. The Appellant has been assessed a penalty for not having health insurance in 2022 for 0 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to her testimony.

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

# CONNECTOR APPEALS UNIT



Appellant had health insurance for 12 month(s) in 2022. She has been assessed a tax penalty for 0 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

## Open Records Request

During the administrative appeal hearing, which occurred on December 12, 2023, the appellant testified to her ability to provide documentation supporting her main reason for appealing, mainly: the Appellant indicated that she did have Health Insurance that met minimum creditable coverage during the hearing question and could prove it by providing her 2022 MA FORM 1099-HC

The record in this case was left open for a period of 60 days to allow the Appellant an opportunity to obtain and submit Form MA 1099-HC. This form, issued by insurance providers, is a crucial document in these proceedings as it confirms whether an individual had minimum creditable coverage for the entire tax year in question. The Form MA 1099-HC is distinct from the federal Form 1095-A, as it is specific to Massachusetts state tax reporting and summarizes a resident's health insurance enrollment for the previous year.

Subsequently, the Appellant provided the requested Form MA 1099-HC for the appropriate tax year. Upon review of this document, it was determined that the Appellant did indeed have a full year of minimum creditable coverage from their insurance provider. This form, issued by the Appellant's insurance company, serves as definitive evidence of compliance with the state's health insurance requirements for the tax year under consideration.

## Conclusion

Upon review of the Form MA 1099-HC submitted by the Appellant for the tax year in question, it has been conclusively determined that the Appellant maintained minimum creditable coverage for the entire period under review. This document, issued by the Appellant's insurance provider, serves as definitive evidence of compliance with Massachusetts health insurance requirements.

In light of this new evidence, the original tax penalty is hereby waived in its entirety. The Appellant has demonstrated full compliance with the individual mandate as set forth in M.G.L. c. 111M, § 2, and the case is resolved in the Appellant's favor.

# **CONNECTOR APPEALS UNIT**



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

## **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

cc. Connector Appeals Unit

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



# CONNECTOR APPEALS UNIT



## FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: Monday, June 10, 2024

---

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4:	2022 Form MA 1099-HC (Reviewed on Monday, June 10,	1 page

2024)

## FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 29 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Hampshire County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$72,817.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 536% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was initially employed as a Data Engineer at an IT Company (January to February) in a full-time capacity. (Appellant's Testimony).
  - a. However, the Appellant experienced a period of unemployment during 2022.
  - b. Later in 2022, the Appellant obtained a second position as an Application Engineer at an IT Company (February through end of the year).
5. The Appellant does currently have Health Insurance. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$72,817.00 was deemed able to pay \$485.45 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 29 and living in Hampshire County, could have purchased private insurance for \$295.00 per month.
8. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
9. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they

## CONNECTOR APPEALS UNIT



challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year.

10. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
13. Appellant testified that he changed employers in February 2022. His new employer provided him with ESI through BlueCross and Blue Shield of Texas. The appellant expressed his belief that he had maintained appropriate health insurance coverage through the Health Connector and was surprised to learn that he was being assessed a tax penalty. (Appellant's Testimony).
14. During the hearing, the appellant asserted that the cost of health insurance was not a factor in his decision to utilize his Employer-Sponsored Insurance. He emphasized that he found the tax penalty to be inequitable, given his continuous coverage through his employers. (Appellant's Testimony).
15. The appellant was given the opportunity to provide the Health Connector with documentation, specifically his 2022 Form 1099-HC, to corroborate his employer-sponsored insurance coverage through BlueCross Blue Shield of Texas. The hearing officer decided to keep the record open for 60 days to allow the appellant to provide the documentation.
16. The appellant submitted the documentation, and the hearing officer reviewed it on June 10, 2024. The documentation showed the appellant's full name and date of birth, although it listed a different address in Boston, Massachusetts. It confirmed that the appellant had minimum creditable coverage from April through December. This new evidence will be taken into account.

# CONNECTOR APPEALS UNIT



## ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority.

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

Appellant was accused of having no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Open Records Evidence and Employer-Sponsored Insurance

The appellant provided evidence of having insurance that met minimum creditable coverage standards for at least nine (9) months in 2022. According to the documentation reviewed on June 10, 2024, the appellant had minimum creditable coverage through BlueCross Blue Shield of Texas, from his employer, from April through December 2022. This documentation included the appellant's full name and date of birth, although it listed a different address in Boston, Massachusetts.

Residents who do not obtain insurance are subject to a tax penalty for each month they do not have health insurance as required by the individual mandate. However, there is a three-month grace period to allow individuals to obtain health insurance coverage or to transition between health insurance policies (G. L. c. 111M, sec. 2(b); Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00). This grace period allows for a 63-day gap in

# **CONNECTOR APPEALS UNIT**



coverage, interpreted as three months. Additionally, the Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship (956 CMR 6.08).

Given that the appellant provided evidence of having minimum creditable coverage, via his employer, for nine (9) months and considering the three (3) month grace period, he has demonstrated that his 12-month penalty should be waived. The combination of his coverage and the grace period satisfies the requirements to avoid the penalty under the relevant statutes and regulations. Thus, the new evidence supports waiving the tax penalty for the appellant.

## **Conclusion**

Based on the evidence provided and the applicable regulations, the appellant's 12-month penalty is therefore waived. The appellant demonstrated sufficient coverage for nine months and is entitled to the three-month grace period, satisfying the requirements to avoid the penalty.

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

## **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

cc. Connector Appeals Unit

## **CONNECTOR APPEALS UNIT**



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

FINAL APPEAL DECISION: PA23-51

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** May 8, 2024

**Decision Date:** June 24, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed his 2023 tax return as Single. Appellant appeared at the Hearing. The Hearing was held by telephone, on May 8, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 16, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 4, 2024, with attachments.
- Exhibit 4: Letter from Appellant's Union stating he was not covered by the Union health insurance plan, and plan information received as a result of an Open Records Request by the Hearing Officer on May 9, 2024.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 48 in January 2023, and he filed his Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Middlesex County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$78,678 (Exhibit 2).

4. Appellant did not have health insurance for all twelve months of 2023 (Appellant Testimony).
5. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single, with an annual adjusted gross income of \$78,678 could afford to pay \$524 per month for health insurance. In accordance with Table 4, Appellant, age 48 living in Middlesex County, could have purchased private insurance for \$409 per month (Family Plan). Private insurance was affordable for Appellant.
8. Appellant testified that he was employed full time in 2023, and changed jobs mid-year. He said for the first six months of 2023 his employer did offer health insurance as a benefit for \$70 a week - which he said he could not afford. He testified that he switched jobs to a union position and needed to work 600 hours in a six-month period to be covered by the union's health care insurance plan. He added that he was not able to work the required number of hours in 2023. He said after he worked 600 hours, he was eligible for the health insurance plan which he now has coverage under (Appellant Testimony and Exhibit 4).
9. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2). Appellant testified that he received a premium quote from the Health Connector in 2023 between \$320 and \$340 per month and he could not afford this.
10. Appellant testified that his estimated monthly living expenses in 2023 exceeded \$3,000 - including a rent payment. (Appellant Testimony).

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

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



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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal tax return as Single and with an adjusted gross income of \$78,678, could afford to pay \$524 per month for health insurance. According to Table 4, Appellant age 48, living in Middlesex County, could have purchased private insurance for \$409 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon his income that was more than 300% of the federal poverty level which was \$40,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant testified that he applied to the Health Connector for 2023 and received a quote of \$320 to \$340 a month and he found this too expensive. Appellant testified credibly that his full-time employer for the first half of 2023 did provide health insurance as a benefit for \$280 a month. He stated this plan was too expensive for his budget and he refused coverage. In addition, he said he found the ConnectorCare quote of \$320 to \$340 too expensive. He testified to monthly living expenses over \$3,000.

Appellant's Adjusted Gross Income was high enough in 2023 to purchase a health insurance plan and would not have resulted in an economic hardship. He could have afforded both his employer's plan and the Health Connector quote he received. This fact is supported by, among other things, his testimony that his current plan is \$6,000 for six months, more than the other previous options (his previous employer's plan and the Connector Care quote). His monthly expenses, although on the higher end, were not high enough to preclude purchasing a plan.

Appellant testified credibly and offered documentation to support his claim that he changed employers in mid-2023 to a union position that required 600 hours in service to be eligible for the plan. He could not access this benefit until 2024 and he now has health insurance.

In light of these facts, I am exercising my discretion as the Hearing Officer and waiving half of the penalty to represent the period when Appellant could not obtain coverage under his employer's plan (union). The Appellant's penalty for 2023 is reduced to six months.

The Appellant should note that the partial waiver of his penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: 12          Number of Months Assessed: 6

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Cc:                      Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-116

**Appeal Decision:** Appeal Approved -- 2023 tax penalty overturned.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 5, 2024

**Decision Date:** June 8, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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. (I note that the Appellant did not submit any documentary evidence to support her appeal.)

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023 (dated 3/11/24); and
3. Health Connector’s Notice of Hearing (2 pages, dated 5/14/24).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2023. The basis for the penalty was that the Appellant was not insured for the months of January through August 2023 but was insured for the months of September through December, 2023. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$79,043. Exhibit 1.
3. The Appellant was 34 years old at the beginning of 2023 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$79,043) was more than 300% of the federal poverty level (\$40,770 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 8.00% of her income -- or \$527 per month -- for health insurance coverage in 2023. (The calculation is 8.00% multiplied by \$79,043 AGI = \$6,323.44 per year divided by 12 months = \$526.95 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$326 per month in 2023.
7. The Appellant worked for two employers in 2023 (Employer No. 1 and Employer No. 2).
8. The Appellant did not have health insurance coverage under Employer No. 1 (January – August) due to the employer's required 32 hours per week to qualify for employer-sponsored health insurance. The Appellant rarely worked 32 hours or more per week while she worked for Employer No. 1. Testimony.

9. The Appellant started to work for Employer No. 2 in September 2023, where she worked full-time. The Appellant promptly enrolled in her new employer's health insurance plan, and was insured for the remainder of 2023 (September – December), with coverage that extended into 2024 when this appeal hearing was held. The Appellant contributed a premium toward her health insurance coverage (the Appellant's estimate was \$120). Testimony.
10. I find that the Appellant's federal adjusted gross income for 2023 (\$79,043 AGI) is not an accurate indicator of the Appellant's ability to afford health insurance in 2023. The Appellant earned more under Employer No. 2 (September – December) than she did under Employer No. 1 (January – August) because she worked more hours per week under Employer No. 2 than she did under Employer No. 1. See Findings of Fact, Nos. 7 – 9, above, and Testimony.
11. 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 2023 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2023 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 2023. 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 2023 income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2023. (The DOR instructions are published online at <http://www.mass.gov/dor/2023ScheduleHCInstructions> 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 2023.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty because the Appellant did not have health insurance coverage for all of 2023. 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 – 2023 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, I conclude that it is appropriate to waive the entire 5 month penalty that the DOR assessed for 2023.

My starting point is in September 2023 when the Appellant started to work for Employer No. 2. The Appellant promptly enrolled in the health insurance plan offered by Employer No. 2, she continued her coverage for the remainder of 2023 (September –

December), continued her coverage into 2024 when this appeal has heard, and paid a monthly premium toward her coverage. This brief history indicates that the Appellant complied with the individual mandate when she obtained a full-time job and was offered health insurance coverage by that employer.

By contrast, the Appellant did not qualify for health insurance under Employer No. 1. She rarely met Employer No. 1's 32 hours per week minimum to qualify for coverage. Though the evidence is slim it indicates that the Appellant's earnings were insufficient to afford health insurance while she worked for Employer No. 1.

For the foregoing reasons I waive the entire 5 month penalty that the DOR assessed for 2023. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ("[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.").

**PENALTY ASSESSED**

Number of Months Appealed:   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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



FINAL APPEAL DECISION: PA 23-151

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 14, 2024

**Decision Date:** June 26, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on June 14, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/16/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 3/16/2024.	(1 P).
Exhibit 2(b):	Unemployment Receipt submitted in Support of Appeal.	(2 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 5/15/2024.	(1 P).

The record shows, and I so find:

1. The Appellant, head of household, filed a 2023 Massachusetts tax return filed with a family size of 1, was age 39 in 2023, lived in Middlesex County, and had (1) dependent and a family size of 2. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$94,050. (Exhibit 1).
3. The Appellant, who is being penalized for eight (8) months, testified that he was eligible for Employer Sponsored Insurance (“ESI”) before he was laid off in July 2023. (Testimony).

4. The Appellant testified he was unable to afford the ESI that was approximately \$600 a month. (Testimony).
5. The Appellant testified he was only appealing healthcare from July 2023 to December, 2023. (Testimony, Exhibit 2(a)).
6. The Appellant testified he received approximately \$800 a week, or \$3,200 a month in unemployment during part of the time he was uninsured, and he could not afford the approximate monthly premiums of \$400+ for Connectorcare. (Testimony, Exhibit 2(a)).
7. The Appellant testified he had to make a choice of either paying his monthly and childcare expenses or health insurance during the time he was unemployed. (Testimony, Exhibit 2(a)).
8. According to Table 3 Appellant could have afforded \$627.00 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$335.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$54,390.00 for a family of (2). (See Table 2 of Schedule HC 2023).
10. The Appellant's testified that his monthly living expenses in 2023 included: Mortgage: \$2,200, Utilities: \$350, Car Insurance: \$100; Internet: \$50, Cell Phone: \$60, Food/Incidentals: \$1,200, Child Care: \$1,500, totaling \$5,460. (Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for eight (8) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because he was unable to afford coverage because of a hardship (Exhibit 2 and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2023, \$94,050 was more than 300% of the federal poverty level, which for 2023 was \$54,930 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$ 627 per month. According to Table 4, Appellant, age 39 in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$335 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance("ESI") in 2023. The Appellant testified that he was eligible for ESI at a cost of \$600 per month. (Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12% percent or less of the employee's projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$94,050 in 2023 and the ESI premium of \$600 per month was less than 9.12% of the employees MAGI ( $\$94,050 \times 9.12\% / 12 = \$721.05$  per month). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was eligible for affordable ESI (Appellant Testimony).

Given that ESI was available to the Appellant during the time he was employed, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could have afforded ESI at \$600 per month during the times he was being penalized given that his net monthly income of approximately \$6,000 from January through June compared to the cost of his monthly basic necessities of approximately \$5,460. Notwithstanding the same, the Appellant was not appealing the months he was employed. I do find, however, that the Appellant met the hardship requirements from July-December where his expenses were greater than the \$3,200 a month he was receiving in unemployment. (Testimony, Exhibit 2(a)). Accordingly, I find that the Appellant has met the hardship criteria for those months, and that purchasing health insurance would have caused the Appellant

to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). In order to mitigate the harshness of a full penalty, the penalty is reduced to three (3) months.

Accordingly, in order to mitigate the harshness of a full penalty and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved in part**.

### **PENALTY ASSESSED**

Number of Months Appealed:   8                        Number of Months Assessed:   3  

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc:    Connector Appeals Unit

Hearing Officer

### **ADDENDUM**

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

FINAL APPEAL DECISION: PA23-153

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 14, 2024

**Decision Date:** June 26, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on June 14, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/16/2024.	(1 P).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 3/16/2024.	(1 P).
Exhibit 2(b):	Appellant's Pay Stub submitted in Support of Appeal dated 12/22/22.	(2PP).
Exhibit 2(c):	Appellant's Checking Statement showing expenses in Support of Appeal dated 11/16/22.	(5 PP).
Exhibit 2(d):	Appellant's Employer's Sponsored Insurance Options.	(2PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 5/15/2024.	(2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single, age 24 in 2023 had 0 dependents in 2023 and lived in Norfolk County. (Exhibit 1).
2. The Appellant testified she moved from Florida in 2022 after graduating from college for employment in Massachusetts. (Appellant's Testimony, Exhibit 2(a)).
3. The Appellant testified she had access to had coverage under her Employer Sponsored Insurance (ESI) Plan but given the uncertainty of her anticipated expenses she did not enroll during the open enrollment period in 2022. (Appellant's Testimony, Exhibit 2(a)-(c)).
4. The cost of the ESI would have been as low as \$101.92 per month according to employer health insurance options submitted by the Appellant. (Exhibit 2(d)).
5. The Appellant's Federal Adjusted Gross Income for 2023 was \$73,797. (Exhibit 1).

6. The Appellant testified she looked into obtaining public sponsored insurance through MassHealth, but her income was too high, and the Appellant was not familiar with Connectorcare. (Appellant's Testimony).
7. The Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed against this assessment (Exhibits 1, 2).
8. According to Table 3, the Appellant could have afforded \$491.98 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$312 per month.
9. The Appellant's testified that her monthly living expenses in 2023 included: Rent: \$2,400, Utilities \$20, WiFi: \$55, Transportation Costs: \$100: Cell Phone: \$50, Food/Incidentals: \$200, Credit Cards: \$500, total \$3,325. (Appellant's Testimony).
10. The Appellant testified her approximate monthly net take home pay was \$3,800. (Appellant's Testimony).
11. The Appellant testified she recognizes the importance of maintaining health insurance and is currently insured. (Appellant's Testimony, Exhibit 2(a)).
12. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to her because the expense of purchasing health insurance during 2023 would have caused the Appellant a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that her income for 2023: \$73,797 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2023 the Appellant could have afforded \$491.48 per month. According to Table 4, the Appellant, age 24, and with zero (0) dependents and living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$312.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that she was offered ESI through her employer with a premium of \$101.92 but did not enroll during the 2022 Enrollment period because she was unsure about her expenses during the transition. (Appellant’s Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). ( $\$73,797 \times 9.12\% / 12 = \$560.86$  per month). In this case, the ESI premium of \$101.92 is less than \$560.72 and thus the ESI was affordable. Based upon the facts summarized above, I find that the Appellant did have access to affordable ESI.

Given that the Appellant had access to affordable ESI and private insurance, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could have afforded private insurance at \$491.98 per month during the times she was being penalized given that her net monthly income of approximately \$3,800 was greater than the cost of her monthly basic necessities of approximately \$3,325. Accordingly, I find that the Appellant has not met the hardship criteria for those months, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). However, where the Appellant testified she understands the importance of maintaining insurance and is currently insured, in order to mitigate the harshness of a full penalty and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved in part**.

## **PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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



FINAL APPEAL DECISION: PA23-156

**Appeal Decision:** Appeal Granted; the tax penalty is waived in its entirety

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 11, 2024

**Decision Date:** July 15, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed his 2023 tax return as Single. Appellant appeared at the Hearing. The Hearing was held by telephone, on June 11, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 17, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 20, 2024, with attachments.
- Exhibit 4: Eviction Notification provided in response to Open Records Request

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 23 in January 2023, and filed his Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Berkshire County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$42,532 (Exhibit 2).
4. Appellant did not have health insurance for eleven months of 2023 (Appellant's Spouse Testimony).

5. Appellant has been assessed a six-month tax penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single, with an annual adjusted gross income of \$42,532 could afford to pay \$264 per month for health insurance. In accordance with Table 4, Appellant, age 23 living in Berkshire County, could have purchased private insurance for \$327 per month. Private insurance was not affordable for Appellant.
8. Appellant testified that he was employed full time at the start of 2023, and had health insurance through his full-time employer. He explained that he was laid off in early 2023 and could not afford the COBRA coverage offered and thus had no health insurance. He testified that he collected unemployment insurance for a period in 2023 and testified that it was a challenging year financially (Appellant Testimony and Exhibit 2).
9. He added that he did not search on the Health Connector website since he was struggling financially and could not afford any health insurance policy (Appellant Testimony and Exhibit 3).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that he was evicted from his living arrangement in 2023, which he described as a camper on land his mother owned, with sporadic electricity and water (Appellant Testimony and Exhibits 3 and 4). He credibly estimated his monthly living expenses in 2023 exceeded \$2,930 - including a rent payment, car repairs, and emergency dental work. He further stated that he currently has health insurance via the Health Connector since he is working consistently and his living situation is stable (Appellant Testimony).

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

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed his Federal tax return as Single and had an adjusted gross income of \$42,532. He could not afford to pay for health insurance via the Health Connector or on the private market. In accordance with Table 3 he could afford to pay \$264 per month for health insurance. According to Table 4, Appellant age 23, living in Berkshire County, could have purchased private insurance for \$327 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$42,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant credibly testified to economic and personal hardships in 2023. He provided documents to support the fact that he was evicted from his living situation, which he described as uncomfortable. He was unemployed for a portion of 2023 and when reemployed testified that he worked a great deal of overtime to try to catch up financially. In addition, he had monthly expenses, both expected and unexpected (Appellant Testimony). Appellant purchasing a health care plan on his own would have created a further economic hardship. He testified to estimated monthly living expenses of \$2,930. Health insurance plans through his employer or state sponsored programs were not available or affordable to him.

Appellant now has health insurance and credibly testified that he prioritized health insurance once his financial and living situation became more stabilized in 2024. Given all of the factors faced by Appellant his penalty of six months for 2023 is waived in its entirety.

The Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

**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 2023.

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

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

Cc:                      Connector Appeals Unit

FINAL APPEAL DECISION: PA23-158

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 11, 2024

**Decision Date:** July 25, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed her 2023 tax return as Single. The Hearing was held by telephone, on June 11, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 17, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 21, 2024, with attachments.
- Exhibit 4: Information on Appellant's Health Insurance provided in response to Open Record Request.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 25 in January 2023, and filed her Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Middlesex County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$62,018 (Exhibit 2).
4. Appellant did not have health insurance for twelve months of 2023 (Appellant's Spouse Testimony).

5. Appellant has been assessed a twelve-month penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$62,018 could afford to pay \$413 per month for health insurance. In accordance with Table 4, Appellant, age 25 living in Middlesex County, could have purchased private insurance for \$412 per month. Private insurance was affordable for Appellant.
8. Appellant testified that she was a full-time graduate student and unemployed until March of 2023 and then became an hourly employee as a research graduate student. She stated when this ended, she obtained temporary employment as a summer intern and most of this salary was in the form of a housing allowance in another state. She added that she began work on a part time basis in August of 2023 (Appellant Testimony and Exhibit 2).
9. She testified that when filing her taxes that her insurance policy did not meet the requirements of Minimum Credible Coverage under Massachusetts law. She added that her premium was \$675 a month. She credibly stated that she did not search for a plan on the Heath Connector website or other means, since she believed she had adequate health insurance in 2023 (Appellant Testimony and Exhibits 3 and 4).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that her monthly living expenses in 2023 were \$1,500 including her health insurance and rent. She added that she had very high (\$63,000 out of pocket for a school year) tuition payments to her school in 2023 (Appellant Testimony).

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

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

Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Single and had an adjusted gross income of \$62,018. In accordance with Table 3 she could afford \$413 per month. According to Table 4, Appellant age 25, living in Middlesex County, could have purchased private insurance for \$412 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for Connector Care coverage based upon their income that was more than 300% of the federal poverty level which was \$42,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant did testify to circumstances that would constitute a financial hardship. For example, she paid tuition to her graduate school, and she had monthly living expense that exceeded \$1,600 in 2023 and she was working part-time. In addition, her summer position was located in another state and most of the salary was for living expenses.

Appellant did have a health insurance plan in 2023, which she credibly believed was compliant with Massachusetts law. Unfortunately for Appellant, the plan which she paid \$675 a month for, did not meet the definition of Minimum Credible Coverage under Massachusetts law. In this scenario it is necessary to evaluate if the plan obtained by Appellant deviated significantly from an MCC plan as defined in 950 CMR 5.09. Here, it appears the plan did not significantly deviate from an MCC compliant plan and provided for a broad range of medical benefits thus, relief from the penalty is acceptable. For example, the plan covers up to 90% of chemotherapy, radiology and substance abuse treatments. In addition, the plan has similar prescription drug and mental health coverage. These benefits must all be included in a plan to meet MCC requirements in accordance with 956 CMR 5.03. Since these benefits and others are included in Appellant's plan, it is my opinion that his plan did not deviate greatly from an MCC plan and this should result in a full waiver of her penalty.

The Appellant was honest and prepared in her testimony and in the documents she presented. The plan she purchased (at a higher premium than Table 4 rates) was geared towards students and was expensive. She had no reason to believe the plan was not compliant with the MCC requirements<sup>1</sup>. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness Appellant's penalty is waived in the entirety.

The Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should she again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Cc:                      Connector Appeals Unit

---

<sup>1</sup> The Plan's Certificate of Insurance does have a disclaimer regarding noncompliance with the Patient Protection and Affordable Care Act (PPACA). However, Appellant - a student recently arriving in the U.S. and making a good faith effort to obtain coverage (as required by M.G.L. Ch. 15A §18) should not reasonably have been expected to interpret this language as applying to the MCC requirement of Massachusetts.



**FINAL APPEAL DECISION**

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 14, 2024

**Decision Date:** Monday, July 8, 2024

-----  
**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 14, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

# CONNECTOR APPEALS UNIT



Exhibit 3 Unitil Energy Bill (Gas)

1 page

Exhibit 4 Correspondence from the Health Connector, dated 6/6/2023

1 page

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 28 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$52,602.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 387% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed as a Landscape Supervisor at a Landscape Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$52,602.00 was deemed able to pay \$333.15 per month for health insurance, or 7.60% of his income. According to Table 4, Appellant, age 28 and living in Essex County, could have purchased private insurance for \$312.00 per month.

# CONNECTOR APPEALS UNIT



- 10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
- 11. In 2023, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,145.00	<u>Car Insurance</u>	\$120.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$176.00	<u>Car</u>	\$501.00
<u>Cable/Internet</u>	\$85.00	<u>Food</u>	\$440.00	<u>Clothing</u>	\$10.00
<u>Heat</u>	\$30.00	<u>Cell Phone</u>	\$90.00	<u>Car Repairs</u>	\$167
<u>Electricity</u>	\$100.00	<u>Household &amp; Toiletries</u>	\$17.00	<u>Other:</u>	\$29.00
				<u>Total:</u>	\$2,910.00

- 12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,383.50. His necessary expenses were determined to be \$2,910.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$644.25 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
- 13. Appellant's statement of grounds for appeal was on the basis of:
  - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
- 14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or

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

## **CONNECTOR APPEALS UNIT**



other natural or man-made disaster in 2023 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. The Appellant attempted to obtain health insurance through the Health Connector but was denied a Special Enrollment Period. (Appellant's Testimony).
17. Additionally, he made efforts to secure private health insurance but was unsuccessful. (Appellant's Testimony).
18. In 2023, he did not consult with a representative from the Health Connector to ascertain the reasons for not receiving a Special Enrollment Period. (Appellant's Testimony).
19. Appellant moved into Massachusetts from New Hampshire beginning on April 1st, 2023. (Appellant's Testimony).
20. The Appellant has been assessed a penalty for not having health insurance in 2023 for 6 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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

Appellant moved into Massachusetts from New Hampshire beginning on April 1st,

## CONNECTOR APPEALS UNIT



2023. He has been assessed a tax penalty for 6 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony). The Appellant was assessed a penalty of 6 months based on their lack of coverage over 9 months, having only lived in Massachusetts for nine (9) months of 2023.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 7.60%.

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

### ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant does not qualify for ConnectorCare as their income is more than 300% of the Federal Poverty Limit but may qualify for Advance Premium Tax Credits.

APTCs are federal tax credits used immediately to lower monthly health plan

## CONNECTOR APPEALS UNIT



premiums. Eligibility and the maximum credit amount depend on income, family size, and the cost of the second-lowest Silver Plan available. To utilize APTCs, one must enroll in a plan through the Health Connector, and the credit is sent directly to the insurance company to reduce the premium cost.

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

### Appellant's Engagement with the Health Connector

The Appellant testified they applied through the Health Connector outside of the open enrollment period and as such were denied the opportunity to shop for Health Insurance via the Health Connector. In such cases, Massachusetts residents may qualify for a Special Enrollment Period (SEP) due to certain specific life events or loss of coverage. The Appellant testified that he was denied a SEP. (Appellant's Testimony and Exhibit 4). In cases where eligibility for a Special Enrollment Period (SEP) is not met, it is incumbent upon individuals to petition for a waiver from the Office of Patient Protection (OPP).

### Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$52,602.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$333.15 per month; according to Table 4, Appellant, who was 28 years old in 2023, lived in Essex County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,383.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$333.15 per month), the Appellant could have afforded private health insurance with a premium of \$312.00 per month. (2023 Schedule HC Tables).

### Other Government-Sponsored Healthcare Programs

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

# **CONNECTOR APPEALS UNIT**



insurance through any other government-sponsored program.

## **Financial Hardship Analysis**

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

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$2,910.00. With a monthly surplus of \$644.25 between income and expenses, it appears that affording a healthcare plan should have been manageable for the Appellant.

## **Conclusion**

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 6-month penalty is upheld.

## **PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Hearing Officer

cc. Connector Appeals Unit

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

**FINAL APPEAL DECISION**

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 14, 2024

**Decision Date:** Monday, July 8, 2024

---

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 14, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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



# **CONNECTOR APPEALS UNIT**



Exhibit 3 National Grid Bill, dated June of 2023

3 pages

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 32 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Head of the Household.
2. The Appellant has 1 dependent. (Exhibit 1).
3. The Appellant testified that their dependent did not need health insurance coverage through the Appellant. (Appellant's Testimony).
4. Appellant lived in Worcester County, MA in 2023 (Exhibit 1).
5. Appellant's Federal Adjusted Gross Income for 2023 was \$73,181.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 538% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
6. In 2023, the Appellant was employed as a Carpenter at in a full-time capacity. (Appellant's Testimony).
7. The Appellant testified that they experienced periods of unemployment during the year 2023, and were employed during the following months: January-November with their employer.
8. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
9. The Appellant does currently have Health Insurance. (Appellant's Testimony).. .
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
11. According to Table 3 of Schedule HC for 2023, The Appellant has 1 dependent. As the Appellant has a dependent, their affordability calculations have been adjusted to reflect that they would pay the rate of a family for private health insurance per the affordability tables in the Schedule HC., with an adjusted gross income of \$73,181.00 was deemed able to pay \$487.87 per

# CONNECTOR APPEALS UNIT



month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 32 and living in Worcester County, could have purchased private insurance for \$326.00 per month.

12. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
13. In 2023, Appellant had the following monthly expenses for basic necessities<sup>1</sup>:

<u>Rent or Mortgage</u>	\$1,755.00	<u>Car Insurance</u>	\$125.00	<u>Medical/Dental</u>	\$334.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$528.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$80.00	<u>Food</u>	\$800.00	<u>Credit Cards</u>	
<u>Heat</u>	\$240.00	<u>Cell Phone</u>	\$60.00	<u>Other:</u>	
<u>Electricity</u>	\$225.00	<u>Household &amp; Toiletries</u>	\$50.00	<u>Car</u>	\$275.00
<u>Child Care Costs</u>		<u>Gas/Transportation Costs</u>	528	<u>Clothing</u>	\$100.00
<u>Car Repairs</u>	117			<u>Total:</u>	\$4,731.00

14. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$6,098.42. His necessary expenses were determined to be \$4,731.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$75.14 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
15. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2023, you received a shut-off notice; or were shut off; or refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone.) Shut off or delivery refusal must be for essential services only. Provide a copy of the shut-off notice ( not a late notice) or other similar

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

## **CONNECTOR APPEALS UNIT**



correspondence from the utility company. (Testimony of Appellant, Exhibit 3.)

16. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
17. Appellant was not homeless, nor did he fall more than thirty days behind in rent payments in 2023. (Appellant's Testimony).
18. Appellant did receive shut-off notices for basic utilities. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant).
  - a. The appellant testified that his National Grid Electric Service which he had claimed was shut off in his statement of grounds, was not actually shut off. (Appellant's Testimony). The Appellant testified that he worked with the utility company to make payments throughout the year avoiding an actual total. (Appellant's Testimony).
19. The appellant testified that he began working for the Carpenter's Union (Local 723) and was informed by his employers that Employer-Sponsored Insurance would not be available to him for 10 months due to eligibility requirements. He also testified that he followed advice received in 2018, which indicated that he would not face state penalties given his Union position.
20. The Appellant has been assessed a penalty for not having health insurance in 2023 for 5 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to

## CONNECTOR APPEALS UNIT



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

Appellant had health insurance for 4 month(s) in 2023. He has been assessed a tax penalty for 5 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

The appellant was offered health insurance by his employer in 2023 at an approximate monthly cost, the exact amount of which was unspecified (Appellant's Testimony). He also testified that he experienced periods of unemployment during 2023 and was employed during the following months: January through November (Appellant's Testimony).

The Appellant was assessed a penalty of 5 months based on their lack of coverage over 8 months. The penalty appears to have been levied in light of the Appellant's unemployment for 1 month from his prior job, held up until January of 2023. The appellant testified that he began working for the Carpenter's Union (Local 723) in January of 2023 and was informed by his employers that Employer-Sponsored Insurance would not be available to him for 10 months due to eligibility requirements. (Appellant's Testimony).

In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of their termination event. A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child), loss of other health coverage, or job loss.. Applicant was not terminated..

The appellant was without insurance from February 2023 through September 2023. Consequently, the appellant would not have been precluded from applying for

# CONNECTOR APPEALS UNIT



ConnectorCare due to having affordable employer-sponsored coverage.

## ConnectorCare Eligibility

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

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for subsidized insurance through the ConnectorCare program, as the Appellant's income level was 538.49% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

## Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted.

## Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$73,181.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$487.87 per month; according to Table 4, Appellant, who was 32 years old in 2023, lived in Worcester County and filed his 2023 Massachusetts taxes as a Head of the Household with 1 dependent<sup>2</sup>, would have had to pay \$326.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$6,098.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$487.87 per month), the Appellant could have afforded private health insurance with a premium of \$326.00 per month. (2023 Schedule HC Tables).

## Other Government-Sponsored Healthcare Programs

---

<sup>2</sup> Who did not require the Appellant to provide them with Health Insurance coverage. (Appellant's Testimony).

# **CONNECTOR APPEALS UNIT**



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

## **Financial Hardship Analysis**

Since affordable insurance was available to the Appellant through their employer and the private market, in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant has demonstrated financial hardship for 2023. Their testimony revealed basic monthly expenses of approximately \$4,731.00. When compared to their net income, this leaves a monthly surplus of only \$75.14. This small surplus makes it challenging for the Appellant to afford additional expenses, particularly health insurance.

## **Conclusion**

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

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

## **PENALTY ASSESSED**

Number of Months Appealed:            5                      Number of Months Assessed:            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 2023.

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

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

# CONNECTOR APPEALS UNIT



Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION: PA23-204

**Appeal Decision:** Appeal Granted; the tax penalty is waived in its entirety

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 9, 2024

**Decision Date:** July 25, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed her 2023 tax return as Single. Appellant appeared at the Hearing. The Hearing was held by telephone, on July 9, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 6, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 21, 2024, with attachments.
- Exhibit 4: Documents from MassHealth demonstrating Coverage for 2023 in response to Open Record Form.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 25 in January 2023, and filed her Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Suffolk County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$20,396 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).



5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$20,396 could afford to pay \$48 per month for health insurance. In accordance with Table 4, Appellant, age 25 living in Suffolk County, could have purchased private insurance for \$312 per month. Private insurance was not affordable for Appellant.
7. Appellant testified that she was employed full time in 2023, but did not work the required hours to qualify for her employer's health insurance benefit (Appellant Testimony and Exhibit 2).
8. She added that she had health insurance through MassHealth and did not get the proper form to file with her tax return for Tax Year 2023 (Appellant Testimony and Exhibit 3).
9. The Appellant's income was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. In response to an Open Record Form from the Hearing Officer, Appellant provided documentation, including a 1095-B, that she was insured via MassHealth for eleven months of 2023.
11. She testified credibly to over \$1,700 of monthly living expense in 2023 (Appellant Testimony).

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Single and had an adjusted gross income of \$20,396. In accordance with Table 3 she could afford to pay \$48 per month for health insurance. According to Table 4, Appellant age 25, living in Suffolk County, could have purchased private insurance for \$312 a month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would have been eligible for Connector Care coverage based upon her income that was less than 300% of the federal poverty level which was \$42,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would have qualified for MassHealth based on the income requirements in 2023.

Appellant adequately presented evidence that she was insured for 2023 via MassHealth which would satisfy the requirements of Massachusetts law and regulations under 956 CMR 5.03. Her income was very low in 2023, just barely above the threshold to be liable for a penalty for being uninsured. She testified that she did not have the proper paperwork to file with her tax return, thus was penalized as not having health insurance.

Appellant had MassHealth coverage in 2023 and continues to be insured. Accordingly, Appellant's penalty of twelve months for 2023 is waived in its entirety. Appellant should know that the option remains for her to amend her 2023 tax return to remedy any discrepancies.

The Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should she again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 23-219

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 9, 2024

**Decision Date:** July 17, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (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 29 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$54,613.

---

<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 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 2023 state income taxes, and confirmed at the hearing, that he had health insurance from January through August 2023, but did not have health insurance for the remaining four months of the year. Exhibit 2.
6. In August 2023, Appellant was laid off from work and as a result lost the health insurance that he had received through his employment.
7. During the remaining months of 2023, his only income was unemployment which was between \$500 and \$600 a week.
8. Appellant believed that he was unable to afford health insurance during the time that he was unemployed.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 four months out of the year. Therefore, he was entitled to a three-month gap without penalty, and so he has been assessed a penalty for only one month.

Because Appellant did not have health insurance in 2023, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

During the four months in 2023 when he was uninsured, Appellant was unemployed. Therefore, he did not have access to employment-based insurance.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must

have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$54,613 and therefore he was not eligible for Connector Care.

However, Appellant could have afforded to obtain insurance on the private, non-group market under affordability standards set by the Health Connector board in accordance with Mass. Gen. Laws ch. 111M, § 2. Under those standards, an individual like Appellant who was in a tax household of one person and who made \$54,613 was deemed able to afford 8 percent of income on health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2023 Schedule HC.) In this case, that would amount to \$4,369 annually or \$364 a month. During 2023, a person like Appellant who lived in Middlesex County and was 29 years of age could have obtained health insurance for a monthly premium of \$312. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC. Thus, under state standards, insurance on the non-group market would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance in 2023, 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. In this case, straightforward application of the affordability standards would be inequitable, because Appellant's income during the time that he was uninsured was considerably less than during the months when he was employed and insured. During the last four months of the year, his only income was unemployment compensation, which amounted to between \$500 and \$600 a week, or between \$2,000 and \$2,400 monthly. If annualized, this would amount to at most \$28,800 annually. Under state affordability standards, a person in a household of one who makes that amount of money annually is deemed able to afford only 4.1 percent of income on health insurance. That amounts to \$1,180 annually or \$98 monthly. As stated above, the least Appellant would have had to pay for health insurance was \$312, and so during the time that he was unemployed, he could not have afforded insurance.

Accordingly, I will allow the appeal and waive the penalty in full.

During the hearing, Appellant stated that he remained uninsured and that his income had dropped even further because he was no longer receiving unemployment compensation. In that situation, Appellant may be eligible for Connector Care at this point. He was urged to apply for insurance and request financial assistance to see if he was eligible. He can do that by applying on-line at the Health Connector's website at [www.mahealthconnector.org](http://www.mahealthconnector.org). Alternatively, he could call the customer service department at 877-623-6765.

#### **PENALTY ASSESSED**

Number of Months Appealed: 1

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 2023.

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-220

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 9, 2024

**Decision Date:** July 17, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (11 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 2023. Exhibit 2.
2. Appellant lived in Suffolk County in 2023. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on her 2023 state income tax returns and confirmed at the hearing, equaled \$60,102.

---

<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2023 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 2023 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2023. Exhibit 2.
6. Appellant moved to Massachusetts from another state in mid-2022. She looked for employment, which she eventually found at the end of that year.
7. Appellant was unaware of the Massachusetts law requiring individuals to have health insurance if it was affordable to them.
8. Appellant worked in the food service industry. The number of hours that she worked varied from week to week.
9. Appellant had to work for a period of time before she became eligible to receive health insurance through employment. When she attempted to sign up for health insurance at that point, she was told by her employer that she was not eligible because she hadn't worked enough hours to qualify.
10. She then attempted to obtain non-group health insurance through the Health Connector, but it was outside the open enrollment period, which had ended on January 23, 2023. She was unable to obtain insurance as a result.
11. Appellant waited until the next open enrollment period, which occurred at the end of 2023. Then, she enrolled in insurance through the Health Connector with a January 1, 2024 effective date. She was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Because Appellant did not have health insurance in 2023, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must 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 2023 Schedule HC instructions at pages HC 7-9

Appellant was not eligible to obtain insurance through her employer because she did not work enough hours to qualify for benefits. As a result, she did not have access to employment-based insurance.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must

have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant’s household income during 2023 was \$60,102 and therefore she was not eligible for Connector Care.

However, Appellant could have afforded to obtain insurance on the private, non-group market under affordability standards set by the Health Connector board in accordance with Mass. Gen. Laws c. 111M, § 2. Under those standards, an individual like Appellant who was in a tax household of one person and who made \$60,102 was deemed able to afford 8 percent of income on health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2023 Schedule HC.) In this case, that would amount to \$4,808 annually or \$400 a month. During 2023, a person like Appellant who lived in Suffolk County and was 27 years of age could have obtained health insurance for a monthly premium of \$312. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC.) Thus, under state standards, insurance on the non-group market would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance in 2023, but didn’t, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. Appellant was unable to obtain health insurance in the non-group market because she did not try to purchase until after open enrollment ended. This was because she believed she would be able to get insurance through her employment, but then learned that she couldn’t because she hadn’t worked enough hours. Thus, as a practical matter, Appellant was unable to obtain insurance in 2023. Further, I take into consideration that Appellant did obtain insurance when the next open enrollment occurred and she was insured as of the date of the hearing.

In light of these factors, I will exercise my discretion to allow the appeal and waive the penalty in full.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-223

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 9, 2024

**Decision Date:** July 17, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (6 pages)

**FINDINGS OF FACT**

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

1. Appellant was 26 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$40,428

---

<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 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 2023 state income taxes that he did not have health insurance at any point in that year.
6. However, at the hearing, Appellant credibly testified that, throughout 2023, he had been insured through his employer.
7. He produced a form sent to him by his employer stating that the employer had offered insurance during the year. See Exhibit 3 (Form 1095-C).
8. The evidence establishes that Appellant was in fact insured during the entire year.
9. Appellant stated that he had filed his taxes himself using an on-line e-file program and that he had trouble entering certain information. He believed that he inaccurately entered information regarding his health insurance coverage and as a result, he filed a tax return erroneously stating that he was uninsured.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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.

As a threshold matter, I must determine whether Appellant was in fact uninsured in 2023. If he was insured, of course, he would not be subject to the individual mandate penalty.

In this case, Appellant testified credibly that he had insurance through his employer. He produced corroborating documentary evidence, consisting of the 1095-C form that his employer provided to him stating that the employer offered insurance in 2023. He explained why he filed a tax return stating that he was uninsured, attributing that to an error he made while e-filing his return. In short, I conclude that Appellant was insured in 2023 and that the tax return, which said otherwise, was erroneous. Accordingly, Appellant should not have been assessed a penalty for being uninsured.

As a result, I am allowing the appeal and waiving the penalty in full.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**FINAL APPEAL DECISION**

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 17, 2024

**Decision Date:** Wednesday, July 24, 2024

---

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on July 17, 2024. The procedures to be followed during the hearing were reviewed with Appellant. he was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

# **CONNECTOR APPEALS UNIT**



Exhibit 3 Correspondence from the Appellant.

1 page

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 46 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Married Filing Jointly. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$122,738.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 670% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a Laborer at a Construction Company in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$122,738.00 was deemed able to pay \$818.25 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 46 and living in Norfolk County, could have purchased private insurance for \$818.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
11. Appellant's statement of grounds for appeal was on the basis of:
  - a. During 2023, the expense of purchasing health insurance would have



## **CONNECTOR APPEALS UNIT**



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

12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The Appellant testified that they were unable to obtain health insurance in 2023 due to their undocumented status.
15. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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

## CONNECTOR APPEALS UNIT



Appellant had no health insurance in 2023. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

### Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable. Because the appellant was either not employed during the tax penalty period or was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

### ConnectorCare Eligibility

The Appellant was unable to shop for health insurance through the Health Connector due to their undocumented status. This circumstance precluded them from accessing ConnectorCare plans or any other options available through the Health Connector, regardless of income or other eligibility criteria.

For individuals who are eligible to use the Health Connector, ConnectorCare plans with state subsidies and tax credits are typically available to those not covered by affordable job-based insurance, as defined by the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can typically disqualify eligible individuals from getting assistance through the Health Connector to reduce their health plan cost. See 26 CFR § 1.36B-2(c)(3).

In Massachusetts, state help with ConnectorCare plans is generally available for eligible individuals with income at 300% of the Federal Poverty Level (FPL) or less. For those with income between 300% and 400% of the FPL, tax credits may be available to reduce health plan costs. To receive an Advance Premium Tax Credit, an eligible individual's expected income must typically be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)).

However, these considerations were not applicable to the Appellant due to their undocumented status, which barred them from accessing the Health Connector's

## CONNECTOR APPEALS UNIT



services altogether. This situation prevented the Appellant from applying through the Health Connector in tax year 2023, despite the individual mandate requirement. The inability to engage with the Health Connector's processes due to immigration status also explains the lack of supporting documentation typically requested on the Statement of Grounds form.

It's important to note that even if the Appellant had been eligible to use the Health Connector, their reported income level of 670.33% of the Federal Poverty Level would have exceeded the threshold for subsidies or Advanced Premium Tax Credits (APTCs).

### Availability of Private Insurance

Due to the Appellant's undocumented status, they were not eligible to purchase health insurance through the Massachusetts Health Connector or to access MassHealth benefits beyond emergency services. This situation significantly impacted their ability to obtain affordable health insurance during 2023.

To qualify for comprehensive MassHealth benefits or to purchase insurance through the Massachusetts Health Connector, individuals must satisfy both financial and non-financial eligibility criteria. A key non-financial criterion is the requirement to be either a U.S. citizen or a non-citizen with an eligible immigration status. The Appellant's undocumented status means they did not meet this requirement.

The Massachusetts Health Connector requires non-citizens to have an immigration status defined as "Lawfully Present" to be eligible to purchase insurance, with or without premium tax credits or other subsidies under the Affordable Care Act. As an undocumented individual, the Appellant did not meet this criterion.

While MassHealth offers different types of coverage for various categories of eligible immigrants, the Appellant's undocumented status precluded them from accessing these options. They would only be eligible for emergency services or safety net benefits, not comprehensive coverage.

Given these circumstances, the affordability calculations based on the HC schedule for 2023 (Tables 3 and 4) are not applicable to the Appellant's situation. These calculations assume access to the private market through the Health Connector, which was not available to the Appellant due to their immigration status.

It's important to note that the Appellant's inability to purchase insurance through the Health Connector or access comprehensive MassHealth benefits was not due to financial reasons, but rather their immigration status. This situation leaves undocumented individuals with limited options for obtaining health insurance, often resulting in a lack of coverage despite the individual mandate requirement.

# **CONNECTOR APPEALS UNIT**



## **Other Government-Sponsored Healthcare Programs**

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

### **Analysis Under 956 CMR 6.08(3)**

As an independent hearing officer, I have considered other grounds that demonstrate the Appellant could not afford to purchase health insurance that met minimum creditable coverage standards, as provided for in 956 CMR 6.08(3).

Given the Appellant's undocumented status, affordable insurance was not available to them through the private market, Employer-Sponsored Insurance, or the Health Connector in 2023. This situation creates unique circumstances that fall under the provision of 956 CMR 6.08(3).

The Appellant's immigration status placed them in a position where they were unable to access the health insurance options typically available to Massachusetts residents. This circumstance demonstrates that the Appellant could not afford to purchase health insurance that met minimum creditable coverage standards, as they were systematically excluded from the avenues designed to make such insurance affordable and accessible.

### **Conclusion**

Under the provision of 956 CMR 6.08(3), I have considered the Appellant's unique circumstances resulting from their undocumented status. This status created a situation where the Appellant was unable to access affordable health insurance as defined by Massachusetts law, demonstrating that they could not afford to purchase health insurance that met minimum creditable coverage standards.

Given these circumstances, the 12-month penalty is waived. The Appellant's situation highlights the challenges faced by undocumented individuals in complying with the individual mandate while being excluded from the systems designed to make insurance affordable and accessible.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. he should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

## **PENALTY ASSESSED**

# **CONNECTOR APPEALS UNIT**



Number of Months Appealed: 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 2023.

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

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

Hearing Officer

cc. Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221323

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

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

**Hearing Date:** February 9, 2024

**Decision Date:** July 15, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellants appeared at the hearing which was held by telephone on February 9, 2024. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 19, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2024 for February 9, 2024 hearing

Exhibit 4: Print-out showing Appellant's monthly payments from August 1, 2021 through March 1, 2023 for health insurance

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, who filed a 2022 Massachusetts tax return jointly with no dependents claimed, were 29 and 35 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellants resided in Norfolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$103,368 in 2022 (Testimony of Appellant, Exhibit 2).
4. One of the appellants was offered health insurance by his employer. He worked for the same employer in 2021 and 2022. Appellant paid \$208 a month for the coverage. He had the same insurance in 2021 when the coverage met the Massachusetts minimum creditable coverage standards. For 2021, Appellant received a 1099HC form showing compliant coverage for the entire year. Appellant learned when he and his spouse were doing their taxes in April, 2023 that the coverage no longer met the Commonwealth's standards. Appellant did not receive a 1099HC for 2022. The insurance company, located in Texas, had its license to do business in Massachusetts revoked sometime in 2022. The appellant did not know about this change in status until 2023. The company and his employer did not notify him of the change in status. By the date of this hearing, the insurance company was out of business (Testimony of Appellant, Exhibit 4).

5. The other appellant had health insurance all year through the Connector (Testimony of Appellant).
6. The appellant who did not have insurance which met the Commonwealth's standards has been assessed a tax penalty for all of 2022. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the uninsured appellant with no dependents claimed with an adjusted gross income of \$103,368 could afford to pay \$689 per month for health insurance. According to Table 4, Appellant, 35 years old and living in Norfolk County, could have purchased insurance for \$595 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
11. Appellants did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
13. The appellants had the following monthly expenses for basic necessities in 2022: rent, including heat and electricity- \$1,350; telephone-\$200; internet-\$230; food, household expenses, and personal care items-\$950; clothing-\$150; gas-\$330; car insurance-\$327; car repairs-\$150; car payments-\$250; support of parents-\$400; eyeglasses-\$40. In addition, the appellants had \$3,400 in business expenses (Testimony of Appellant).
14. Appellant's employer now offers health insurance which meets the minimum creditable coverage standards. As of the date of this hearing, Appellant had this coverage (Testimony of Appellant, Exhibit 1 attachment).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

cial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act. See 956 CMR 5.00 et. seq. for minimum creditable coverage standards set by the Commonwealth. Pursuant to 956 CMR 6.08(2)(d), if a plan which does not meet the standards is found to substantially meet the requirements, the tax penalty assessed may be waived.

Only one of the appellants has been assessed a tax penalty. The penalty is for all of 2022. The other appellant had coverage which met the Commonwealth's minimum creditable coverage standards. The appellant who has been assessed a penalty had health insurance all year through a company located in Texas. The coverage was offered to the appellant by his employer who was also located out of Massachusetts. The insurance offered by this company met the Commonwealth's standards in 2021. Appellant had the same coverage in both years. For 2021, the appellant received a 1099-HC showing that he had compliant coverage all year. In 2023, Appellant did not receive a 1099-HC for 2022. When he and his spouse did their taxes, they discovered that Appellant's coverage did not meet the Commonwealth's standards. Appellant paid \$208 each month of 2022 for the coverage. This was affordable coverage for the appellant. See Exhibits 1, 2, and 4; and the testimony of Appellant which I find to be credible. See also Tables 3 and 4 of Schedule HC for 2022.

Appellants did not have a financial hardship as defined in 956 CMR 6.08(a, b, d and e). Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022. They did not receive any shut-off notices for basic utilities in 2022, and they did not fall more than thirty days behind in their rent. During the months for which one of the appellants has been assessed a penalty, Appellant earned about \$8,000 gross a month. Their basic expenses came to about \$4,400 a month. The cost of purchasing Connector coverage (about \$600 a month: See Table 4 of Schedule HC 2022) would not have caused the appellants to suffer a serious deprivation of basic necessities.

Despite the lack of financial hardship, I determine that the appellant's penalty should be waived. Appellant and his spouse understood the importance of health insurance. One had coverage through the Connector and the other had the coverage offered by his employer, an out-of-state company. In 2021, the coverage offered met the Commonwealth's minimum creditable coverage standards. In 2022, the same coverage did not. Appellant realized this only when he and his spouse did their 2022 taxes in 2023. He was never notified by his employer or the insurance company when the coverage no longer met the standards. In fact, the insurance company lost its license to sell coverage in Massachusetts in 2022, yet the company never sent notice of this change in status to the appellant. See the testimony of the appellant which I find credible.

Appellant was not someone who did not see the importance of health insurance or who thought he could not afford it. He obtained coverage which meets Massachusetts standards as soon as his employer offered new coverage. See the testimony of the appellant which I find to be creditable.

Appellant's penalty is waived in its entirety.

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

### **PENALTY ASSESSED**

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



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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221324

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

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

**Hearing Date:** February 9, 2024

**Decision Date:** June 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on February 9, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 15, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 4, 2024 for February 9, 2024 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 47 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Bristol County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$36,010 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same full-time job all year. In 2022, the appellant was not offered health insurance through her job (Testimony of Appellant).
5. Appellant was not interested in getting health insurance in 2022. As of the day of this hearing, Appellant believed that "doctors are a joke," and if she got very ill, she would kill herself. She did not believe in going to the doctor (Testimony of Appellant).
6. Appellant has been assessed a penalty for all of 2022. She has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$36,010 could afford to pay \$150 per month for health insurance. According to Table 4, Appellant, 47 years old and living in Bristol County, could have purchased insurance for \$557 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).

11. Appellant received at least one shut-off notice for her phone service in 2022 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).

13. Appellant lived with her parent in 2022. She did not pay rent (Testimony of Appellant)

14. Appellant had the following monthly expenses for basic necessities in 2022: rent-\$0.00; electricity-\$0.00; property taxes- \$200; home owner's insurance-\$70; heat-\$35; telephone-\$120; food-\$215; household items, and personal care items-\$50; clothing-\$20; truck payment-\$500; truck insurance-\$100; gas-\$344. In addition, Appellant had three horses. Care of these animals cost the appellant about \$650 a month (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance which met the Commonwealth's standards in 2022. Appellant has been assessed a penalty for the entire year. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$36,010 could afford to pay \$150 per month for health insurance. According to Table 4, Appellant, 47 years old and living in Bristol County, could have purchased insurance for \$557 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$36,010, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment. See also the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant, who lived with her parent, had the following expenses for basic necessities in 2022: rent-\$0.00; electricity-\$0.00; property taxes- \$200; home owner's insurance-\$70; heat-\$35; telephone-\$120; food-\$215; household items, and personal care items-\$50; clothing-\$20; truck payment-\$500; truck insurance-\$100; gas-\$344. In addition, Appellant had three horses. Care of these animals cost the appellant about \$650 a month. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$36,010. Her monthly pay, before taxes and other deductions, came to about \$3,000 per month. Appellant's expenses for basic necessities came to about \$1,675. Even if the cost of caring for her horses is included, her expenses would only amount to \$2,325. If Appellant obtained health insurance through the ConnectorCare program for \$150 a month, Appellant would have had enough to pay for the premium and pay for all her other expenses. She would not have suffered a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e); see Exhibit 2 and the testimony of the appellant which I find credible.

Appellant, however, received a shut-off notice for her phone service at least once during the year. Pursuant to 956 CMR 6.08(1)(b), the receipt of a shut-off notice for a basic utility constitutes a financial hardship, making insurance unaffordable for the recipient of the notice. See the testimony of the appellant which I find credible.

Appellant has been assessed a penalty for all of 2022. Given the shut-off notice Appellant received, I determine that Appellant should have three months of her penalty waived. Appellant is not entitled to have her entire penalty waived because she had affordable health insurance available to her (except the months during which she received shut-off notices) through the ConnectorCare program. Appellant made a decision not to obtain insurance. Based upon Appellant's own testimony, it is clear the appellant had no intention or interest in obtaining health insurance. She referred to doctors as "jokes," and said she would commit suicide if she got very ill. She did not believe in going to doctors and saw no need for coverage. See the testimony of the appellant.

Appellant's penalty is waived in part.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   9  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed a penalty, as listed above, plus the applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221352

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

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

**Hearing Date:** February 15, 2024

**Decision Date:** July 3, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on February 15, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 21, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 5, 2024 for February 15, 2024 hearing

Exhibit 4: Final Appeal Decision for Tax Year 2016 dated December 22, 2017

Exhibit 5: Final Appeal Decision for Tax Year 2017 dated February 21, 2019

Exhibit 6: Final Appeal Decision for Tax Year 2019 dated June 15, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 45 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampshire County in 2022. The appellant lived with her mother (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$32,550 in 2022. Appellant's income was inconsistent from month to month (Testimony of Appellant, Exhibit 2).
4. Appellant worked part-time in a grocery all year. Appellant's hours at work varied from week to week. She earned \$16 an hour. Appellant also worked full-time at another job in January, February, and June through November (Testimony of Appellant).
5. Neither employer offered health insurance to the appellant (Testimony of Appellant).

6. Appellant had no health insurance in 2022. She has been assessed a tax credit penalty for twelve months. Appellant has appealed the assessment. As of the date of this hearing, Appellant still did not have health insurance (Exhibits 1, 2, Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$32,550 could afford to pay \$135 per month for health insurance. According to Table 4, Appellant, 45 years old and living in Hampshire County, could have purchased insurance for \$398 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income and the lack of access to employer offered insurance (Table 2 of Schedule HC-2022, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
13. Appellant did not have a home of her own in 2022. The appellant lived with her mother. She did not pay rent or for heat or electricity. The appellant had the following monthly expenses for other basic necessities in 2022: internet- \$125; telephone-\$170; food-\$945; clothing-\$65; car insurance-\$82; gas-\$260; car repairs-\$125; personal loan repayment-\$400; old credit card debt-\$400; eye glasses-\$50 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage that meets minimum creditable standards set by the Commonwealth “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance which met the Commonwealth's standards in 2022. Appellant has been assessed a penalty for the entire year. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$32,550 could afford to pay \$135 per month for health insurance. According to Table 4, Appellant, 45 years old and living in Hampshire County, could have purchased insurance for \$389 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$32,550, less than the income limit for one person (\$38,640). Appellant also was not offered health insurance through employment. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had a full-time job and a part-time job during 2022. The appellant was not offered health insurance through employment. See also the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant, who lived with her mother during 2022, had the following expenses for basic necessities during the year: internet- \$125; telephone-\$170; food-\$945; clothing-\$65; car insurance-\$82; gas-\$260; car repairs-\$125; personal loan repayment-\$400; old credit card debt-\$400; eye glasses-\$50. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$32,550. Her monthly pay came to about \$2,700 per month, though her earnings varied from month to month. Her expenses amounted to approximately \$2,650. Appellant had little or no disposable income after paying for basic necessities. If she had to pay for health insurance, even ConnectorCare, Appellant would have run a deficit every month. See Exhibit 2 and the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety.

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



**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_12\_\_\_ Number of Months Assessed: \_\_\_0\_\_\_

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221384

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

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

**Hearing Date:** February 16, 2024

**Decision Date:** July 20, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on February 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 10, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 9, 2024 for February 16, 2024 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 28 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$49,532 in 2022. Appellant's income was inconsistent. Appellant earned less during the summer months (Testimony of Appellant, Exhibit 2).
4. Appellant had an internship all year which paid \$18-\$20 an hour. Appellant worked 28 hours a week. Appellant also was a teacher's assistant for eight months during the year working 20 hours a week for \$18 an hour (Testimony of Appellant).
5. Neither employer offered health insurance to the appellant. In 2023, when she worked full-time, Appellant obtained health insurance. As of the date of this hearing, Appellant still had coverage (Testimony of Appellant).

6. Appellant had health insurance through the Connector in January, 2022. The appellant lost the coverage at the end of January. The appellant has been assessed a tax credit penalty for eight months. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$49,532 could afford to pay \$313 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Suffolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022. Appellant, who lived in a basement apartment, did have a flood in September, 2022. She had \$500 worth of damage (Testimony of Appellant).

11. Appellant received two shut-off notices for basic utilities in 2022 (Testimony of Appellant).

12. Appellant fell more than thirty days behind in her rent payment in November, 2022. She did not pay her November rent until the end of December (Testimony of Appellant).

13. The appellant had the following monthly expenses for basic necessities in 2022: rent, including heat and electricity-\$1,036; internet- \$36; telephone-\$100; food for herself and her mother-\$650; clothing and laundry-\$247; car insurance-\$393; gas-\$240; car payments-\$365; eyeglasses and contact lenses-\$85. Appellant had to pay \$500 for flood damage to her belongings and \$300 to support her sister during the year. Appellant also had to spend \$300 for tools for her internship (Testimony of Appellant, Exhibit 1 attachment).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

cial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance which met the Commonwealth's standards in January, 2022. Appellant has been assessed a penalty for eight months (May through December) only since she is entitled to a three-month grace period after losing coverage. See Massachusetts General Laws Chapter 111M, Section 2. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$49,532 could afford to pay \$313 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Suffolk County could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4; Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$49,532, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had two jobs during 2022. The appellant was not offered health insurance through either job. See the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the individual market, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and/or (e), and 6.08(3).

Appellant had the following expenses for basic necessities during 2022: rent, including heat and electricity-\$1,036; internet- \$36; telephone-\$100; food for herself and her mother-\$650; clothing and laundry-\$247; car insurance-\$393; gas-\$240; car payments-\$365; eyeglasses and contact lenses-\$85. Appellant had to pay \$500 for flood damage to her belongings and \$300 to support her sister during the year. Appellant also paid \$300 for tools for her internship.

Appellant's monthly expenses came to about \$3,200 a month. The tools, support to her sister and damage caused by the flooding of her apartment cost \$1,100 during the year. Appellant's income varied. For four months (summer), Appellant only earned about \$2,300 before taxes. During the rest of the year, Appellant earned about \$3,700 before taxes each month. If we add in the cost of insurance (\$277) and taxes, Appellant would have had no disposable income and, in at least four months, would have run a deficit. See Exhibit 1 and the testimony of the appellant which I find to be credible.

Appellant also had two shut-off notices for basic utilities. She fell more than thirty days behind in her rent for November. She was unable to pay her November rent until the end of December. See the testimony of the appellant which I find to be credible.

Based upon the facts summarized above, I find that Appellant suffered a financial hardship in 2022 pursuant to 956 CMR 6.08(1)(a), (b) and (e). The financial hardship made the cost of health insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety. See Massachusetts General Laws, Chapter 111M, Section 2.

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-252

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 15, 2024

**Decision Date:** July 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 14, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 16, 2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. She lives in Essex County, Massachusetts.
2. Appellant works as a nanny full-time and has two part-time jobs.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$1,818.00, consisting of rent \$666.00, heat & light \$116.00, internet & cable \$52.00, cell phone \$9.00 car payment \$489.00, car insurance \$6.00, car gas \$40.00 food \$250.00, credit card \$100.00, two student loans 100.00. The Appellant spent \$8,000.00 of her savings on expenses during the year.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "During 2023, 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 2023. 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 2023.
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 \$21,992.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Essex County for a 25 year old single person was \$312.00. The tables reflect that Appellant could afford \$51.31 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant works as a nanny full-time and has two part-time jobs.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “During 2023, 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 2023, 150 percent of the FPL was \$20,385.00 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 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$21,992.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$51.31 monthly for health insurance. See 2023 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 \$312.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2023. 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 2023 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   1        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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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 23-253

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 15, 2024

**Decision Date:** July 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 14, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 4, 2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-seven years old and is single. She lives in Hamden County, Massachusetts.
2. Appellant works in a medical business. Appellant obtained a new job in May of 2022 and obtained health insurance through her job after her probation period. Appellant did not sign up for health insurance through her job in 2023 because she did not receive a notice from her company. She did receive a notice from another company, but the name was different than her company and she did not open the offer. Appellant tried to sign up after the renewal dated but was refused by her company and the Health Connector.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$3,080.00, consisting of rent \$900.00, heat & light \$125.00, internet & cable \$130.00, car payment \$543.00, car insurance \$210.00, car gas \$540.00 food \$400.00, clothing \$300.00 toiletries \$10.00, medicine \$68.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "Other. During 2023 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 2023. 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 2023.
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 \$55,480.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Hamden County for a 56 year old single person was \$512.00. The tables reflect that Appellant could afford \$369.86 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant works in a medical business. Appellant obtained a new job in May of 2022 and obtained health insurance through her job after her probation period. Appellant did not sign up for health insurance through her job in 2023 because she did not receive a notice from her company. She did receive a notice from another company, but the name was different than her company and she did not open the offer. Appellant tried to sign up after the renewal dated but was refused by her company and the Health Connector.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “Other. During 2023 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 2023, 150 percent of the FPL was \$20,385.00 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 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$55,480.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay 369.86 monthly for health insurance. See 2023 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 \$512.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2023. 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 2023 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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-71

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** May 8, 2024

**Decision Date:** July 2, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 8, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-17-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (2-24-24) (with letter and documents) (5 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 59 during 2023, from Plymouth County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did have health insurance for January through June 2023, through the Health Connector, but did not have it for the remaining months of 2023. (Appellant's testimony, Exhibits 2, 3). Appellant's spouse had Medicare and there was also a premium for that as well as the Health Connector premium (Exhibit 3). Due to Appellant's spouse losing access to food stamps and a smaller check for Medicaid, Appellant did not believe they could afford the continued premiums. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$32,970.00 (Exhibit 2).

4. Appellant's expenses for food, shelter, clothing, taxes, transportation, and other necessities used all of the income. Appellant's monthly expenses totaled \$3,985.00, or \$47,820.00 per year.
5. Appellant again enrolled in insurance as of 2024. (Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$490.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$112.00.
8. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
9. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for January through June 2023 but did not have health insurance for the remaining months of 2023. They have been assessed a tax penalty for three 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 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$32,970.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$112.00 per month; according to Table 4, Appellant, who was 59 years old in 2023, from Plymouth County, and filed the 2023 Massachusetts taxes as married filing jointly with a family size of 1, would have had to pay \$490.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for 2023 used all of the income. Appellant now has health insurance. 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 2023 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: 3/0      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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-74

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** May 8, 2024

**Decision Date:** July 2, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant and Appellant's representative appeared at the hearing, which was held by telephone, on May 8, 2024. The hearing record consists of the Appellant's representative's testimony, with the Appellant's permission, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-17-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (2-29-24) (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 26 during 2023, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2023. (Appellant's testimony, Exhibits 2, 3). Appellant did not believe they could afford the premiums. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$34,123.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, taxes, transportation, and other necessities used most of the income. Appellant's monthly expenses totaled \$2,577.00, or \$30,924.00 per year.
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$312.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$137.00.
7. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
8. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
9. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did not have health insurance for 2023. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must

determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$34,123.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$137.00 per month; according to Table 4, Appellant, who was 26 years old in 2023, from Worcester County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$312.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for 2023 used most 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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-76

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** May 8, 2024

**Decision Date:** July 8, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 8, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-17-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-4-24) (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 32 during 2023, 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 2023. (Appellant's testimony, Exhibits 2, 3). Appellant is a member of a Laborer's Union and did not have sufficient hours in 2022 and beginning of 2023 to qualify for health insurance benefits. Appellant began working more hours again in July and qualified for health insurance as of January 2024. Appellant was not aware that the health insurance had been cancelled until August of 2023. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$58,587.00, most of which was earned between July and December (Appellant's testimony, Exhibit 2).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
5. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$326.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$390.00.
6. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
7. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
8. Appellant claimed that they should be granted a waiver based on the grounds Appellant worked for a union that had health insurance but Appellant had been deemed ineligible due to insufficient hours and Appellant did not become aware of that until August 2023, and then qualified again as of January 2024. (Testimony of Appellant, Exhibit 3).
9. 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 2023 (Exhibit 3).
10. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did not have health insurance for 2023. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should

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

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$58,587.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$390.00 per month; according to Table 4, Appellant, who was 32 years old in 2023, from Norfolk County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$326.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that the union to which Appellant belonged provided health insurance and Appellant was not aware that he had been taken off of the health insurance due to insufficient hours until August 2023, at which time he then became eligible again as of January 2024. 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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-77

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** May 8, 2024

**Decision Date:** July 8, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 8, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-17-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-4-24) (with letter and documents) (7 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 30 during 2023, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2023, but it did not meet Minimum Creditable Coverage requirements for Massachusetts. (Appellant's testimony, Exhibits 2, 3). Appellant obtained the health insurance and paid the premiums and it met Appellant's needs. Appellant was not aware that the insurance did not meet MCC until Appellant requested tax forms from the insurance company. Appellant obtained health insurance that did meet MCC as of January 2024. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$109,769.00 (Exhibit 2).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
5. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$312.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$731.00.
6. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
7. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
8. Appellant claimed that they should be granted a waiver based on the grounds Appellant had health insurance but it did not meet MCC and Appellant was not aware that it did not meet MCC until Appellant requested tax forms from insurance company. (Testimony of Appellant, Exhibit 3).
9. 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 2023 (Exhibit 3).
10. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for 2023, but it did not meet MCC for Massachusetts. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether



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

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$109,769.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$731.00 per month; according to Table 4, Appellant, who was 30 years old in 2023, from Plymouth County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$312.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds Appellant had health insurance but it did not meet MCC and Appellant was not aware that it did not meet MCC until Appellant requested tax forms from insurance company. Appellant obtained health insurance that did meet MCC as of January 2024. 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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-137

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** July 16, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 12, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-15-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-15-24) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 33 during 2023, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January through June 2023, through the Health Connector, but did not have it for the remaining months of 2023. (Appellant's testimony, Exhibits 2, 3). Appellant then tried to obtain health insurance through Appellant's fiancé's employer but the cost was too high (\$700 per month). (Appellant's testimony).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$70,800.00. (Appellant's testimony, Exhibit 3).

4. Appellant's expenses for food, shelter, clothing, taxes, transportation, student loans and other necessities used a significant amount of the income. Appellant's monthly expenses totaled \$3,845.00, or \$46,140.00 per year. (Appellant's testimony, Exhibit 3).
5. Appellant now has health insurance through Appellant's spouse's employer as Appellant was married in May 2024. (Appellant's testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$326.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$472.00.
8. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp->

[content/uploads/rules-and-regulations/AdminBulletin03-10.pdf](#). The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for January through June 2023 but did not have health insurance for the remaining months of 2023. They have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$70,800.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$472.00 per month; according to Table 4, Appellant, who was 33 years old in 2023, from Worcester County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$326.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for 2023 used a significant amount of the income for the months that Appellant did not have health insurance. Appellant now has health insurance. 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 2023 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: 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-138

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** July 16, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 12, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-15-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-20-24) (with letter) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 55 during 2023, from Worcester County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for May and June 2023 but did not have it for the remaining months of 2023. (Appellant's testimony, Exhibits 2, 3). Appellant had a waiting period to obtain health insurance through the employer, and then was laid off in July 2023, but could not collect unemployment. (Appellant's testimony).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$32,075.00. (Appellant's testimony, Exhibit 2).

4. Appellant's expenses for food, shelter, clothing, taxes, transportation, and other necessities used all the income. Appellant's monthly expenses totaled \$2,639.00, or \$31,668.00 per year. (Appellant's testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$490.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$109.00.
7. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
8. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
9. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for May and June 2023 but did not have health insurance for the remaining months of 2023. They have been assessed a tax penalty for four 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 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$32,075.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$109.00 per month; according to Table 4, Appellant, who was 55 years old in 2023, from Worcester County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$490.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for 2023 used all of the income for the months that Appellant did not have health insurance. 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 2023 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: 4          Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-139

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** July 16, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

One of Appellants appeared at the hearing, which was held by telephone, on June 12, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-15-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-18-24) (5 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 62 and 37 during 2023, from Berkshire County, filed married filing jointly on the tax return with a family size of 4. (Exhibit 2).
2. One of Appellants had insurance for all of 2023, the other Appellant had health insurance for January through June 2023 but did not have it for the remaining months of 2023. (Appellant's testimony, Exhibits 2, 3). Appellant experienced issues with enrollment. (Appellant's testimony).
3. Appellants' Federal Adjusted Gross Income for 2023 was \$41,964.00. (Appellant's testimony, Exhibit 2).
4. Appellants' expenses for food, shelter, clothing, taxes, transportation, and other necessities used all the income. (Appellant's testimony, Exhibit 3).
5. Appellants now both have health insurance. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$1,214.00 for family coverage. According to Table 3, Appellants were deemed to afford \$118.00.
8. Private insurance was not affordable for the Appellants in 2023. (Schedule HC for 2023).
9. Appellants' AGI was under 300% of the Federal Poverty Level for a family size of 4, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. and difficulty with enrollment. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for January through June 2023 but did not have health insurance for the remaining months of 2023. They have been assessed a tax penalty for three 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 Appellants during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellants, with an adjusted gross income of \$41,964.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$118.00 per month; according to Table 4, Appellants, who were 62 and 37 years old in 2023, from Berkshire County, and filed the 2023 Massachusetts taxes as married filing jointly with a family size of 4, would have had to pay \$1,214.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities and that they had difficulty enrolling. Appellant's expenses for 2023 used all of the income for the months that Appellant did not have health insurance. 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 2023 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: 0/3      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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-140

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** July 16, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 12, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-15-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-18-24) (with letter) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 60 during 2023, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2023. (Appellant's testimony, Exhibits 2, 3). Appellant's mother had medical issues and Appellant was only able to do part-time work in order to provide care for Appellant's mother. (Appellant's testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$29,627.00. (Appellant's testimony, Exhibit 2).
4. Appellants' expenses for food, shelter, clothing, taxes, transportation, and other necessities used all the income. (Appellant's testimony, Exhibit 3).
5. Appellant now has health insurance as of January 2024. (Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$490.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$101.00.
8. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
9. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. and caring for a family member. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did not have health insurance for 2023. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum

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

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$29,627.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$101.00 per month; according to Table 4, Appellant, who was 60 years old in 2023, from Middlesex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$490.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities and that caring for a family member caused reduced income. Appellant's expenses for 2023 used all 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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-155

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** July 16, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 12, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-16-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-19-24) (with letter and documents) (7 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 33 during 2023, 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 March 2023, through the employer, but did not have it for the remaining months of 2023. (Appellant's testimony, Exhibits 2, 3). Appellant became unemployed as of April 2023 and remained unemployed for the remainder of 2023.
3. Appellant's Federal Adjusted Gross Income for 2023 was \$66,795.00, however, Appellant's income was much higher during the months Appellant had health insurance and was employed, and Appellant's income from April through December was only unemployment at approximately \$800.00 per week. (Appellant's testimony, Exhibit 3).

4. Appellant's expenses for food, shelter, clothing, taxes, transportation, student loans and other necessities used all the income for the months that Appellant did not have health insurance. Appellant's monthly expenses totaled \$3,526.00, or \$42,312.00 per year. Appellant's annualized income during the months that appellant did not have health insurance was \$41,600.00. (Appellant's testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$326.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$445.00.
7. Private insurance was affordable for the Appellant in 2023. (Schedule HC for 2023).
8. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
9. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, etc. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2023 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp->



[content/uploads/rules-and-regulations/AdminBulletin03-10.pdf](#). The connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for January through March 2023 but did not have health insurance for the remaining months of 2023. 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 affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$66,795.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$445.00 per month; according to Table 4, Appellant, who was 33 years old in 2023, from Middlesex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$326.00 for individual coverage per month for insurance on the private market. If only the months that Appellant did not have health insurance are considered, however, Appellant could not afford the insurance. In that case, Appellant would be deemed to afford \$258.00, and the cost would have been \$326.00. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

Regarding the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant’s expenses for 2023 used all the income for the months that Appellant did not have health insurance. 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 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA 23-173

**Appeal Decision** Appeal Allowed in Part

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 13, 2024

**Decision Date:** June 26, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 13, 2024. The procedures to be followed during the hearing were reviewed with the Appellant's mother 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 and his mother's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated May 17, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 23, 2024
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Hamden County, Massachusetts.
2. The appellant applied to the Health Connector on September 23, 2024. While he was applying for health insurance he received a telephone call from Strategic Limited Partners LP. The Appellant thought Strategic was connected to the Health Connector and signed up for what he thought was Health Insurance. The Appellant found out in 2024 that Strategic was not a company that was compliant with Massachusetts Health insurance laws. Appellant canceled his contract with Strategic.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,818.00, consisting of cell phone \$79.00, car payment \$475.00, car insurance \$150.00, car gas \$300.00, food \$800.00, clothing \$50.00, boat payment\$364.00, boat insurance \$50.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 "Other. During 2022 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 2023. 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 2023.
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 \$65,303.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Hamden County for a 27 year old single person was \$327.00. The tables reflect that Appellant could afford \$435.35 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 applied to the Health Connector on September 23, 2024. While he was applying for health insurance he received a telephone call from Strategic Limited Partners LP. The Appellant thought Strategic was connected to the Health Connector and signed up for what he thought was Health Insurance. The Appellant found out in 2024 that Strategic was not a company that was compliant with Massachusetts Health insurance laws. Appellant canceled his contract with Strategic.

The Appellant did submit a Statement of Grounds for Appeal-2023 “Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$65,303.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$435.35 monthly for health insurance. See 2023 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 \$475.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2023 because of the fraud perpetrated on him in September 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY APPROVED** , and the 2023 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   6   Number of Months Assessed:   2  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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 23-249

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 15, 2024

**Decision Date:** July 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 14, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal



## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. He lives in Bristol County, Massachusetts.
2. The Appellant should have been covered by his father's health insurance coverage but his father refused to sign the documents. Appellant was working for a nursing home that did not offer health insurance coverage in 2023. Appellant's grandfather died in February 2023 and the Appellant had to help with expenses. Appellant took less college courses starting in September 2023 and obtained health insurance.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$1,685.00, consisting of rent \$500.00, cell phone \$80.00, car payment \$250.00, car insurance \$250.00, car gas \$200.00, food \$250.00, clothing \$35.00, auto expenses \$100.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-2023 but should have appealed under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. 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 2023.
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 \$28,368.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Bristol County for a 26 year old single person was \$312.00. The tables reflect that Appellant could afford \$96.92 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 should have been covered by his father’s health insurance coverage, but his father refused to sign the documents. Appellant was working for a nursing home that did not offer health insurance coverage in 2023. Appellant’s grandfather died in February 2023 and the Appellant had to help with expenses. Appellant took less college courses starting in September 2023 and obtained health insurance.

The Appellant did not submit a Statement of Grounds for Appeal-2023 but should have appealed under “During 2023, 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 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$28,368.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$96.92 monthly for health insurance. See 2023 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 \$312.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2023 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_6\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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 23-251

**Appeal Decision** Appeal Denied

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 15, 2024

**Decision Date:** July 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 14, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 4, 2024

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-five years old and is single. He lives in Bristol County, Massachusetts.
2. The appellant works for a refrigeration company as a HVAC foreman. Appellant thinks he forgot to enroll in open enrollment in 2023 and does not have health insurance in 2024. Appellant is waiting for enrollment in 2024. Appellant's employer offered health insurance in 2023 at approximately \$120.00 per week, which would be approximately \$480.00 per month after the employer paying half of the premium. Appellant had no medical visits in 2023.
3. Appellant does not have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$3,682.00, consisting of rent \$800.00, heat & light \$130.00, internet & cable \$50.00 cell phone \$100.00, car payment \$400.00, car insurance \$206.00, car gas \$130.00, food \$800.00, credit card \$100.00, toiletries \$100.00, child support \$800.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-2023.
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 2023. 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 2023.
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 \$85,465.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Bristol County for a 34 year old single person was \$329.00. The tables reflect that Appellant could afford \$569.76 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 works for a refrigeration company as a HVAC foreman. Appellant thinks he forgot to enroll in open enrollment in 2023 and does not have health insurance in 2024. Appellant is waiting for enrollment in 2024. Appellant’s employer offered health insurance in 2023 at approximately \$120.00 per week, which would be approximately \$480.00 per month after the employer paying half of the premium. Appellant had no medical visits in 2023.

The Appellant did not submit a Statement of Grounds for Appeal-2023.

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 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$85,465.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay

\$569.76 monthly for health insurance. See 2023 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 \$329.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has not shown that he was precluded from purchasing affordable health insurance during 2023. 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 2023 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-164

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** July 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on June 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to provide additional evidence, which the Appellant so provided. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).
- Exhibit 2: Statement of Grounds for Appeal (4 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 12, 2024 (2 pages).
- Exhibit 4: Open Record Request, dated June 12, 2024 (2 pages)
- Exhibit 5: July 9, 2024 email from Appellant and attached screenshots (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 29 in April 2023. (Exhibit 1).
3. The Appellant resided in Hampden County in 2023. (Exhibit 1).



4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$54,371. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements from July to December 2023. The Appellant was assessed a 3-month tax penalty. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal but handwrote on it "Did not receive cancellation notice for health insurance. Was unaware that it was closed out." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. The Appellant's AGI of \$54,371 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$54,371, could have afforded to pay \$362 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was \$54,361 or more could have spent 8% of their earnings on health insurance; 8% of \$54,371 is \$4349, and one-twelfth of \$4349 is \$362.
10. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 29 living in Hampden County in July 2023, cost \$327 per month.
11. The Appellant testified that they had insurance through their employer from January through June 2023 and that they did not remember how much this health insurance cost them.
12. The Appellant testified that they tried to schedule a doctor's appointment in October 2023 and learned then that their health insurance had been canceled as of July 2023.
13. The Appellant testified that when they learned in October 2023 that their health insurance had been canceled, they contacted the human resources department at their job, and the human resources department sent them a document showing that they had canceled their health insurance earlier in the year.

14. The Appellant testified that in April 2023, they had gone online to re-enroll in their employer's health insurance. The Appellant testified that they did not understand why their health insurance was canceled and that they never would have knowingly canceled it.
15. The Appellant testified that during the April 2023 period in which they attempted to re-enroll in health insurance, they had been having problems with their work computer. The Appellant testified that perhaps they accidentally hit the wrong button on their computer.
16. The Appellant testified the human resources department told them in October 2023 that they could not enroll in health insurance through their employer because the open enrollment period had ended. The Appellant testified that the human resources department advised them to contact the Health Connector to obtain health insurance.
17. The Appellant testified that they immediately contacted the Health Connector and were told that they could not enroll in health insurance through the Health Connector until January 1.
18. The Appellant testified that they have been enrolled in health insurance through the Health Connector since January 2024 and that they will re-enroll in their employer's health insurance for July 2024.
19. The Appellant testified that, prior to their attempt to schedule a doctor's appointment in October 2023, they never received notification that their health insurance had been canceled as of July 2023.
20. The Appellant testified that there might have been emails between the Appellant and their employer's human resources department concerning the cancellation of their health insurance.
21. I left the record open for the Appellant to provide "[d]ocumentation showing communications between the Appellant and the Appellant's employer concerning the cancellation of the Appellant's employer-sponsored health insurance." I further stated, "If the Appellant is unable to provide the information requested . . . the Appellant should provide an explanation of why they could not obtain such information." (Exhibit 4).
22. In response to my open record request, the Appellant sent an email to the Health Connector on July 9, 2024 that stated: "Good afternoon, I am sending the information that I have from the [employer's] Link from when I found out that I did not have health insurance. I spent a couple days trying to figure out how to find the dates but I am unable to find them on some of these pictures. I have also attached an email that I found from the company in November when I had found out." (Exhibit 5).
23. The Appellant included three screenshots with their July 9, 2024 email. The first screenshot is of a November 9, 2023 email to the Appellant which itself contains a screenshot titled "Annual Enrollment Application." This screenshot shows a red circle with an "X" through it under the heading "Health Insurance" and the words: "You have chosen to cancel the Health Insurance

Plan. Termination Date: 6/30/23.” There is an attestation at the bottom of the screenshot that states: “I authorize [Employer] to update my [Employer] benefits and authorize my employer, or direct my pension authority, to deduct from my payroll or pension check the amount required for the coverage I have selected. *I understand that due to IRS regulations, health insurance coverage elections are binding for the duration of the plan year and that I may only enroll in health insurance or change my coverage during the plan year if I experience a qualifying status change* (examples include marriage, birth/adoption of a child, death of a dependent, and involuntary loss of coverage). I understand that [Employer] must receive any required documentation for health insurance enrollments and changes within 60 days of the event. Family status change documentation for optional life insurance enrollment and changes must be received by [Employer] within 60 days of the qualifying event. All divorces and remarriages must be reported to the [Employer]; failure notify the [Employer] of legal separation, divorce or remarriage can result in financial liability to you.” (Exhibit 5)(Emphasis added).

24. Directly below the Attestation, there is a checked box that states, “I certify that I have read and acknowledged the above attestation.” The Appellant’s name appears directly below the checked box, and to the right of the Appellant’s name is the date “5/1/2023.” (Exhibit 5).

25. The other two screenshots provided by the Appellant are not legible. (Exhibit 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant’s appeal from the DOR’s assessment of a 3-month tax penalty because the Appellant’s tax forms indicated that they did not have health insurance that met Massachusetts’ minimum creditable coverage (“MCC”) standards from July to December 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the “individual mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the FPL. Finding of Fact No. 8.

Second, I conclude that the Appellant had access to affordable health insurance on the private market because, according to Table 3 of the Schedule HC, they could have afforded to pay \$362 per month for health insurance, and according to Table 4 of the Schedule HC, they could have purchased health insurance on the private market for \$327 per month. Findings of Facts Nos. 9 and 10.

I also conclude that the Appellant had access to health insurance meeting MCC standards through employment because the Appellant credibly testified that they had health insurance through employment from January through June 2023, and the Appellant's Schedule HC shows that this health insurance met MCC standards. Finding of Fact No. 11 and Exhibit 1. There is insufficient evidence in the record to conclude whether this health insurance was affordable to the Appellant because the Appellant testified that they did not remember how much this health insurance cost them. Finding of Fact No. 11. However, the Appellant did not claim that their employer-sponsored health insurance was not affordable to them.

The gist of the Appellant's appeal is that their employer-sponsored health insurance was canceled as of July 2023, but that they never would have knowingly canceled such insurance and that they never received a cancellation notice. Findings of Fact Nos. 12 and 14. The Appellant testified that they were having difficulties with their computer during the April 2023 re-enrollment period for their employer-sponsored health insurance and that they might have accidentally hit the wrong button. Finding of Fact No. 15.

I find the Appellant's testimony that they did not know their health insurance was cancelled as of July 2023 not to be persuasive. In response to my open record request, the Appellant submitted a screenshot titled "Annual Enrollment Application" that clearly stated that they had chosen to cancel their health insurance and that it would be terminated as of June 30, 2023. Finding of Fact No. 23 and Exhibit 5. The document contains a red circle with an "X" to the left of this statement that appears to be designed to alert the employee of their health insurance's cancellation. Finding of Fact No. 23 and Exhibit 5. The document also contains an attestation that the Appellant appears to have electronically checked off on May 1, 2023 that states, among other things, that health insurance coverage elections are binding for the plan year. Finding of Fact No. 23 and Exhibit 5. I find that the Appellant's testimony that they might have unknowingly canceled their health insurance by hitting the wrong button on their computer (Finding of Fact No. 15) not to be persuasive, given that the text and the red circle on the screenshot would give an employee clear and unambiguous notice of their health insurance's

cancellation, and that the Appellant appears to have affirmatively checked off the attestation stating that their health insurance coverage elections would be binding for the plan year.

The Appellant did not argue that that they suffered a hardship such that affordable health insurance meeting MCC standards was not available to them during the months in which they did not have health insurance; rather, their appeal is based solely on their testimony that they did not knowingly cancel their employer-sponsored health insurance and were unaware of its cancelation until October 2023. Because I find the Appellant's testimony on this issue to be unpersuasive, I find that it is appropriate to uphold the Appellant's 3-month tax penalty in its entirety. See G.L. c. 111M, § 2.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-165

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

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 12, 2024

**Decision Date:** June 19, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on June 12, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (8 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 12, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 31 in December 2023. (Exhibit 1).
3. The Appellant resided in Essex County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$114,494. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal but submitted a statement that said, "Due to sincerely held religious beliefs I am appealing the mandate for state issued healthcare." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. The Appellant's AGI of \$114,494 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$114,494, could have afforded to pay \$763 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was \$54,361 or more could have spent 8% of their earnings on health insurance; 8% of \$114,494 is \$9159, and one-twelfth of \$9159 is \$763.
10. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 30 living in Essex County in January 2023, cost \$312 per month.
11. The Appellant testified that they were appealing their tax penalty solely because of their religious beliefs.
12. The Appellant testified that they prepared their own tax returns for tax years 2021 and 2022 and successfully claimed the religious exemption from the individual health insurance mandate.
13. The Appellant testified that because they started a business in 2023, they had a tax preparer prepare their tax returns for tax year 2023 and told the tax preparer about the religious exemption. The Appellant testified that they thought perhaps the tax preparer had not filed their tax returns correctly.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant’s appeal from the DOR’s assessment of a 12-month tax penalty because the Appellant’s tax forms indicated that they did not have health insurance that met Massachusetts’ minimum creditable coverage (“MCC”) standards during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the “individual mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

The Appellant testified that they did not file an appeal because they suffered a hardship, but rather that they filed an appeal because they believed they were entitled to an exemption from the individual mandate because of their religious beliefs. Finding of Fact No. 11. Under G.L. c. 111M, section 3, “An individual shall be exempt from section 2 if he files a sworn affidavit with his income tax return stating that he did not have creditable coverage and that his sincerely held religious beliefs are the basis of his refusal to obtain and maintain creditable coverage during the 12 months of the taxable year for which the return was filed.” The Health Connector does not adjudicate appeals concerning the religious exemption; rather, its jurisdiction is limited to adjudication of hardship appeals. 830 CMR 111M.2.1(7)(a). Because the Appellant has not appealed their tax penalty based on hardship, their appeal of their tax penalty to the Health Connector is denied.

**PENALTY ASSESSED**

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



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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-183

**Appeal Decision:** Appeal Denied.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 17, 2024

**Decision Date:** June 21, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 21, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 18, 2024.
- Exhibit 4: Appellant's letter in support of this appeal.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 28 in December 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$86,431 (Exhibit 2).
4. The Appellant had health insurance for the period of January through March but did not have health insurance for the period of April through December in tax year 2023 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a six-month tax penalty for 2023. The Appellant filed an appeal of the assessment in March 2024 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$86,431 could afford to pay \$576 per month for health insurance. In accordance with Table 4, the Appellant age 28, living in Suffolk County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was affordable for the Appellant in 2023.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$86,431 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant testified that they changed jobs in April 2023 and lost their employer sponsored health insurance. The Appellant said their new employer is a very small company and does not offer health insurance. The Appellant explained that she left an abusive relationship in 2022 and moved in with her parents. Their landlord had allowed this for a six to seven month period. The Appellant stayed living with her parents until April 2023. The Appellant indicated that moving was expensive and they could not afford health insurance. The Appellant said that they looked for insurance in September but had missed the window to apply (Appellant Testimony).
10. The Appellant's monthly living expenses of \$3,573 included: rent-\$1,700; heat-\$100; electricity-\$60; internet-\$50; telephone-\$70; food-\$650; car insurance-\$200, expenses for a dog-\$120 and credit card payments of \$623. The Appellant said that the cost to move in April was approximately \$3,000 and that they spent about \$3,000 for furniture (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2023 income tax return as a single person with no dependents. The Appellant had health insurance coverage for the period of January through March but did not have health insurance for the period of April through December in tax year 2023 and consequently has been assessed a six-month penalty. The Appellant filed an appeal in March 2024 claiming financial hardship.

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

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

In accordance with Table 3 of Schedule HC for 2023 the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$86,431 could afford to pay \$576 per month for health insurance. According to Table 4, the Appellant, age 28, living in Suffolk County, could have purchased a private insurance plan for \$312 month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant did not have access to employer sponsored health insurance for the period of April through December in tax year 2023. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income of \$86,431 that was greater than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant moved in April of tax year 2023. The Appellant argues that the cost of the move and buying furniture made health insurance unaffordable. The Appellant's three-month grace period was in effect from April through June after the Appellant lost their employer sponsored health insurance in March. The Appellant testified to monthly living expenses of \$3,573 including the cost of caring for their pet and credit card payments in addition to their monthly living expenses. Given the Appellant's income of \$86,431 and the fact that private health insurance was available to the Appellant at a monthly cost of \$312, the Appellant has failed to demonstrate that purchasing health insurance would have caused the Appellant to experience significant financial hardship such that they could not meet their monthly living expenses for the period of July through December in tax year 2023. 956 CMR 6.08. The Appellant's six-month penalty is upheld. See 956 CMR 6.08.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-185

**Appeal Decision:** Appeal Approved in Part/ Denied in Part.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 17, 2024

**Decision Date:** June 21, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the Hearing, which was held by telephone, on June 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 21, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 20, 2024.
- Exhibit 4: The Appellant's letter in support of the Appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 28 in April 2023, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was living in Worcester County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$55,233 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2023 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2023. The Appellant filed an appeal of the assessment in March 2024 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$55,243 could afford to pay \$368 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Worcester County, could have purchased private insurance for \$312 per month (Schedule HC for 2023). Private insurance was affordable for the Appellant in 2023.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$55,233 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant submitted W-2 forms from two employers and a Form 1099-G verifying their unemployment compensation. Although the Appellant wrote in their letter that they were unemployed for an extended period in tax year 2023, when asked the Appellant testified that they were unemployed for the months of May and June. The Appellant was employed by one employer for the period of January through April and according to their W-2 form had average monthly income of \$4,305 for these months. The Appellant's monthly unemployment compensation income was \$1,357.50 for the months of May and June. The Appellant's average monthly income for the period of July through December was \$6,016 according to the W-2 form for this employer (Exhibit 4 and Appellant Testimony).
10. The Appellant lives in a shared housing situation. The Appellant's share of monthly expenses totaled \$2,320 and included: rent-\$555; heat-\$100; electricity-\$80; telephone-\$100; car payment-\$350; car insurance-\$240; gasoline-\$303; internet-\$50 and food-\$542. The Appellant testified that at one point they did have to borrow money from their roommates for their share of the rent (Appellant Testimony).
11. The Appellant testified that their employer for the period of January through April did not offer health insurance. The Appellant said that they were not sure of the cost of employer sponsored health insurance for the employment beginning in July 2023. The Appellant said there was a waiting period to qualify. The Appellant remains working for this employer and estimates the monthly cost of insurance is \$240 for tax year 2024. The Appellant has not enrolled (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

The Appellant filed their 2023 income tax return as a single person no dependents claimed. The Appellant did not have health insurance for any months of tax year 2023 and consequently has been assessed a twelve-month tax penalty. The Appellant appealed the assessment citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$55,243 could afford to pay \$368 per month for health insurance. According to Table 4, the Appellant, age 28, living in Worcester County, could have purchased a private insurance plan for \$312 per month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household’s income of \$55,243 that was greater than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant submitted documentation with their appeal request verifying changes in income in tax year 2023. For the period of January through April the Appellant’s monthly earned income was \$4,305. The Appellant’s monthly earned income for the period of July through December was \$6,016. The documentation submitted does not support the Appellant’s written statement that they were unemployed for an extended period. The Appellant testified that the Form 1099-G verifying unemployment compensation of \$2,775 was for a two-month period. The Appellant’s monthly income for this period was \$1,370. The Appellant testified to monthly living expenses of \$2,320. The Appellant’s expenses exceeded their income during the months of May and June 2023.

Health insurance was available to the Appellant at a monthly cost of \$312 (See Table 4 of Schedule HC 2023). While the insurance was affordable for the Appellant for some months of tax year 2023, given his two months of unemployment and the cost to pay back bills resulting from this reduction in income, the Appellant’s penalty for the months of May, June and July is waived. The Appellant’s twelve-month penalty is reduced to nine months. 956 CMR 6.08 (1). This Appeal is approved in part and denied in part

The Appellant should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   9

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-189

**Appeal Decision:** Appeal Approved.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 17, 2024

**Decision Date:** July 2, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 21, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Undated Statement of Grounds for Appeal, with attachments post marked in March, 2024.
- Exhibit 4: Health Connector Appeals Unit Record Open Form dated June 17 2024.
- Exhibit 6: Additional information submitted by the Appellant on June 28, 2024.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 40 in May 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Worcester County in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$26,055 (Exhibit 2).
4. According to the Appellant's Schedule HC-2023, the Appellant had health insurance for the months of November and December 2023 but did not have health insurance for the period of January through October in tax year 2023 (Exhibit 2).

5. The Appellant has been assessed a seven-month penalty. The Appellant filed an appeal of the assessment in March 2024 and submitted a copy of their Form 1099 HC-2023 verifying their insurance coverage for the months of November and December 2023 (Exhibits 2, 3).
6. The Appellant testified that they had health insurance through MassHealth for the period of January through August and found out when they went to the doctor that their plan had been cancelled. The Appellant said that when they found out about the problem, they enrolled in another plan effective November and December of tax year 2023. The Appellant said that they had Tax Form 1095-B verifying their coverage for the first eight months of tax year 2023 (Exhibit 3 and Appellant Testimony).
7. The record was left open until July 2, 2024 to allow the Appellant to submit additional evidence (Exhibit 4).
8. On June 28, 2024 the Appellant contacted the Health Connector Appeals Unit via Email and submitted a copy of their Form 1095-B-2023 verifying that the Appellant had health insurance that met Massachusetts standards for the period of January through August in tax year 2023 (Exhibit 6).
9. The Appellant had health insurance coverage that met MCC requirements for the periods of January through August as well as November through December in tax year 2023. The Appellant was uninsured for the two-month period of September and October 2023 (Exhibits 3, 5 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2023 income tax return as a single person with no dependents. According to the information in the Appellant’s Schedule HC- 2023, the Appellant did not have health insurance for the period of January through October in tax year 2023 and consequently was assessed a seven-month penalty. The Appellant filed an appeal of the assessment in March 2024.

The Appellant testified that they had health insurance coverage through MassHealth for the period of January through August in tax year 2023. The Appellant said that their plan was changed for some reason and the Appellant was not aware of this. This caused a two-month interruption in coverage during the months of September and October. Once the Appellant discovered the problem, he reenrolled in another plan for the months of November and December 2023. The Appellant submitted a copy of their Form 1099-HC for tax year 2023 verifying that the Appellant had health insurance that met Massachusetts standards for months of November and December. The Appellant also submitted a copy of their Form 1095-B verifying their coverage for

the months of January through August. Given the regulatory grace period outlined above, the Appellant should not be subject to a tax penalty for the two months they were uninsured in tax year 2023.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Appellant: 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 2023.

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-191

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 18, 2024

**Decision Date:** July 11, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 18, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2023

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 44-years-old, is single and has two minor children who live in Haiti. In 2023, he had minimum creditable coverage (MCC) health insurance for the month of December. (Testimony, Ex. 2)
2. The appellant had health insurance through MassHealth in 2022. (Testimony)
3. The appellant was employed as a seasonal employee from November, 2022, through January, 2023. He was hired by the same employer on a full-time basis beginning on April 14, 2023. The employer offered health insurance, but the appellant was advised that he had a 90-day waiting period before he was eligible to enroll in the insurance. At the end of the period, the employer notified him that he did not qualify to enroll because he was considered a seasonal employee. The appellant later determined that the employer had mischaracterized his employment status because of his previous seasonal employment, and he became eligible to enroll for the month of December, 2023. (Testimony, Ex. 2)

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. While the appellant was in the waiting period for employer health insurance, he investigated online health insurance options through the Health Connector. He had difficulty navigating the website and called customer service for assistance. He requested an interpreter in his native language, but the agency could not provide him with one. He did not continue to pursue the process thereafter. (Testimony)
5. The appellant has been enrolled in employer health insurance since January 1, 2024. (Testimony)
6. The appellant reported an adjusted gross income of \$40,690.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him in 2023 because he purchased health insurance that didn't meet minimum creditable coverage standards since that is what his employer offered, and he felt that his circumstances prevented him from buying other insurance that met the requirements. He also submitted a letter with his statement in which he stated in part that he was not eligible for employer health insurance because he was a seasonal employee. He further stated that he tried to get coverage through the Health Connector, but he could not be provided with an interpreter in his native language.

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 2023, 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant had health insurance for the month of December, he was assessed and is appealing a penalty of eight months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that he had worked as a seasonal employee from November, 2022, through January, 2023, and was hired by the same employer on a full-time basis in April, 2023. He testified that he was advised that he would be eligible to enroll in employer health insurance after a 90-day waiting period. He testified that at the end of that period, the employer notified him that he did not qualify to enroll because he was considered a seasonal employee. He testified that he later determined that the employer had mischaracterized his employment status due to his prior seasonal employment, and he was able to enroll for the month of December. Finally, he testified that he investigated his insurance options through the Health Connector during his waiting period, but did not pursue the process because the agency could not provide him with an interpreter in his native language.

Although the appellant filed his application on the ground that he had employer health insurance that did not meet minimum creditable coverage standards (MCC), that ground is inapposite based on his testimony that he did not enroll in employer insurance until December. However, he offered credible testimony which established that he was initially in a 90-day waiting period for employer health insurance after which he was advised that he did not qualify because of a mischaracterization of his employment status. Since the appellant relied in good faith on

the employer's representation that he would be able to enroll in insurance, neither the waiting period of 90 days nor the ensuring time frame when he was given incorrect information should be considered in the calculation of a penalty. Furthermore, the appellant did not demonstrate an intent to avoid the mandate given his effort to investigate insurance options during the waiting period, and his subsequent enrollment in insurance for December, 2023. Finally, he was enrolled in insurance through MassHealth in 2022 and is currently enrolled in employer insurance, underscoring his compliance with the mandate.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   8  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-194

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 18, 2024

**Decision Date:** July 11, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 18, 2024, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

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

- Ex. 4—Employer Health Insurance Information for 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 37-years-old, is single and has one minor child. She did not have health insurance in 2023. She resided in Worcester County in 2023. (Testimony, Ex. 2)
2. Prior to 2023, the appellant last had health insurance in 2022 through the Health Connector. (Testimony)
3. The appellant has never been subject to a penalty prior to 2023 for failure to obtain health insurance. (Testimony)

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant was employed in 2023. The employer did not offer health insurance to her. (Ex. 4)
5. The appellant investigated health insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$200.00 which she could not afford. (Testimony)
6. The appellant is not enrolled in health insurance for 2024. (Testimony)
7. The appellant reported an adjusted gross income of \$37,942.00 on her 2023 federal tax return, and reported that she was head of household with one dependent. (Ex. 2)
8. In 2023, the appellant had regular monthly expenses of approximately \$3620.00 for rent (\$1100.00), heat (\$500.00), electricity (\$250.00), internet service (\$80.00), cell phone (\$250.00), car loan (\$330.00), car insurance (\$150.00), gasoline (\$160.00), and food (\$800.00). In addition, she paid a personal loan in the amount of \$200.00/month and paid credit card debt in the amount of \$350.00/month. (Testimony)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities.

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 2023, 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2023, she last had health insurance in 2022 through the Health Connector. She testified that she was employed in 2023, but the employer did not offer health insurance to her. She testified that she investigated insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$200.00 which she could not afford. Finally, she testified that she has never been subject to a penalty prior to 2023 for failure to obtain health insurance.

The evidence provided by the appellant established that her income for 2023, \$37,942.00, was less than 300% of the federal poverty level (FPL), which for 2023 was \$54,930.00 for a family of two. Table 3 of the Affordability Schedule indicates that an individual filing as head of household with one dependent with a federal adjusted gross income between \$36,621.00 and \$45,775.00 is deemed to be able to afford a monthly premium of \$196.03



(6.20% of \$37,942.00/12). Table 4 of the Premium Schedule indicates that a 36-year-old individual (the age of the appellant in 2023) in Worcester County (where the appellant resided in 2023) could have purchased private health insurance for \$335.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2023.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$196.03 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2023 she incurred basic monthly expenses of approximately \$4170.00, including her personal loan and credit card debt. Those expenses were more than her regular monthly pre-tax income of approximately \$3161.00, thereby making a monthly premium of \$196.03 for subsidized health insurance unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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 encouraged to investigate health insurance options for 2025 on the Health Connector website at <https://www.mahealthconnector.org> during the open enrollment period which runs from November 1, 2024 through January 23, 2025.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-195

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 18, 2024

**Decision Date:** July 15, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 18, 2024, and testified under oath. <sup>1</sup>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—2023

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

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 27-years-old, is single, and does not have children. He did not have health insurance in 2023. He resided in Plymouth County, MA in 2023. (Testimony, Ex. 2)
2. Prior to 2023, the appellant last had health insurance in 2023 under his father's plan. (Testimony)
3. The appellant was employed in 2023, but the employer did not offer health insurance. (Testimony)
4. The appellant investigated health insurance options and determined that a monthly premium on the private market would have cost approximately \$350.00 which he could not afford. (Testimony)

---

<sup>1</sup> Approximately twenty minutes into the hearing, the appellant dropped off the call without explanation and did not call back in. It was determined that the hearing was almost completed at that point, and there was sufficient evidence in the record to write a decision.

<sup>2</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant and his sister had been looking to buy a house in Plymouth County for approximately thirteen months. In order to save money for the purchase, he moved into his brother's house from January through July and did not pay him any rent. His brother's contribution to the purchase was a waiver of all expenses so he could save his money and put it toward the house. He and his sister were able to buy a house at the end of July, 2023. He moved in at that time and resided there for the rest of the year.
6. The appellant has been enrolled in health insurance through the Health Connector since January, 2024. (Testimony)
7. The appellant reported an adjusted gross income of \$57,324.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. From January through June, 2023, when the appellant lived with his brother in Plymouth County, he had regular monthly expenses of approximately \$856.00 for his cell phone (\$80.00), automobile payment (\$326.00), automobile insurance (\$210.00), gasoline (\$80.00) and food (\$160.00). In addition, he paid \$336.00/month for two student loans, \$480.00/month for two personal loans and \$427.00/month towards credit card debt. From July through December, 2023, when the appellant lived in his house in Plymouth County, he had regular monthly expenses of approximately \$1293.00 for his mortgage which included real estate taxes and homeowner's insurance (\$1100.00), electricity (\$100.00), trash collection (\$30.00), water service (\$13.00), and internet service (\$50.00). The other expenses he incurred during the first part of the year remained the same. (Testimony)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that he could not afford to pay his rent and decided to save money to buy a house with his sister. He further stated that 2023 was financially stressful and he often could not afford to eat. Finally, he stated that he was able to pay off a couple of his loans and has been enrolled in health insurance in 2024.

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 2023, 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2023, he was insured under his father's health insurance plan. He testified that he investigated insurance options for 2023 and determined that a monthly premium would have cost approximately \$350.00 which he could not afford. He testified that he and his sister had been looking to buy a house for approximately thirteen months because he could no longer afford his rent. He testified that he moved into his brother's house from January through July and did not pay him rent or any other household expenses in order to save as much money as possible. He testified that he and his sister were able to buy a house at the end of July. Finally, he testified that he has been enrolled in insurance through the Health Connector since January, 2024.

The evidence provided by the appellant established that his income for 2023, \$57,324.00, was more than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income greater than \$54,361.00 is deemed to be able to afford a monthly premium of \$382.16 (8.00% of \$57,324.00/12). Table 4 of the Premium Schedule indicates that a 26-year-old individual (the age of the appellant in 2023) in Plymouth County (where the appellant resided in 2023) could have purchased private health insurance for \$312.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2023.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that from January through June, 2023, he incurred basic monthly expenses of approximately \$2099.00, including his student loans, personal loans and credit card payments, and from July through December, 2023, after he had purchased his house, he incurred basic monthly expenses of approximately \$3392.00. Those expenses were less than his regular monthly pre-tax income of approximately \$4777.00, thereby making a private insurance premium of \$312.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2678.00 per month at the highest and \$1385.00 at the lowest is not a panacea, it does not appear on its face that the payment of \$312.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that in order to buy a home, he had to save as much money as possible, which included moving in with his brother for half of the year and missing meals. His strategy did not appear to evidence a deliberate intent to evade the purchase of health insurance. Indeed, he was insured in 2022, and has been insured in 2024, thereby demonstrating that the mandate to obtain health insurance was not lost on him.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

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

Hearing Officer

Cc:     Connector Appeals Unit

**ADDENDUM**

The appellant is advised that this extension of leniency is for this year only and he should not rely on a similar result if he is assessed and appeals a penalty in the future.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-197

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** June 18, 2024

**Decision Date:** July 16, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 18, 2024, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- 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 45-years-old, is single and has one child who is 20-years-old. In 2023, she had minimum creditable coverage (MCC) health insurance for the months of June through December. She resided in Barnstable County in 2023. (Testimony, Ex. 2)
2. The appellant has been employed on a part-time basis as a teacher since 2022 and has not been eligible for employer health insurance due to her part-time status. She had health insurance through the Health Connector in 2022. She has not been subject to a penalty for failure to obtain health insurance prior to 2023. (Testimony)
3. In 2023, the appellant fell behind with her bills due to an increase in several monthly expenses including her mortgage, homeowner's insurance and the cost of gas. She received at least one shut-off notice from National Grid for her gas service, but was able to negotiate a payment plan to avoid the shut off. As a

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

result of the unexpected increases, she had to prioritize her expenses, and determined that she could not afford a health insurance premium until she got on top of her bills. (Testimony, Ex. 1)

4. The appellant has been enrolled in health insurance through the Health Connector since January, 2024. (Testimony)
5. The appellant reported an adjusted gross income of \$51,403.00 on her 2023 federal tax return, and reported that she was head of household with one dependent. (Ex. 2)
6. In 2023, the appellant had regular monthly expenses of approximately \$2983.00 for her mortgage which included real estate taxes and homeowner's insurance (\$1200.00), electricity (\$170.00), trash service (\$33.00), water supply (\$12.00), internet service (\$100.00), two cell phones for herself and her daughter (\$200.00), automobile loan (\$252.00), automobile insurance (\$136.00), gasoline (\$180.00), and food (\$700.00). In addition, she paid approximately \$400.00/month in credit card debt. (Testimony)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also indicated in her statement that her cost of living had increased including her mortgage, homeowner's insurance and utilities.

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 2023, 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant had insurance for the months of June through December, she was assessed and is appealing a penalty of two months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that she was employed on a part-time basis in 2023 and was not eligible for employer health insurance. She testified that she had health insurance through the Health Connector in 2022, but could not afford it in 2023 due to an increase in her living expenses including her mortgage, homeowner's insurance, gas and utilities. She testified that she received a shut-off notice for her gas service, but was able to negotiate a payment plan to avoid the shut-off. Finally, she testified that she has been enrolled in insurance through the Health Connector since January, 2024.



The evidence provided by the appellant established that her income for 2023, \$51,403.00, was less than 300% of the federal poverty level (FPL), which for 2023 was \$54,930.00 for a family of two. Table 3 of the Affordability Schedule indicates that an individual filing as head of household with one dependent with a federal adjusted gross income between \$45,776.00 and \$54,930.00 is deemed to be able to afford a monthly premium of \$316.99 (7.40% of \$51,403.00/12). Table 4 of the Premium Schedule indicates that a 44-year-old (the age of the appellant in 2023) with a family in Barnstable County (where the appellant resided in 2023) could have purchased private health insurance for \$358.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2023.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$316.99 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2023, she incurred basic monthly expenses of approximately \$3383.00 including her credit card debt. Although those expenses were less than her regular monthly pre-tax income of approximately \$4283.00, the difference of \$900.00 between income and expenses is inadequate to cover a subsidized insurance premium of \$316.99/month, particularly in light of unanticipated expenses which typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e). It is also noted that the appellant had insurance in 2022 and has been enrolled in insurance in 2024 thereby demonstrating that the mandate to purchase health insurance has not been lost on her.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   2  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-256

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 15, 2024

**Decision Date:** July 22, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (11 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on July 25, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 28 in June 2023. (Exhibit 1).
3. The Appellant resided in Franklin County in 2023. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$30,210. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of January through June 2023. The Appellant was assessed a 3-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023 other circumstances such as: applying the Affordability Tables to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2). The Appellant handwrote on the Statement of Grounds for Appeal: "Out of work from previous employment."
7. The Appellant also submitted with their Statement of Grounds for Appeal: (1) a Monetary Determination dated February 18, 2023 from the Department of Unemployment Assistance showing that they would receive \$364 per week in unemployment compensation, with a benefit year effective date of February 12, 2023; (2) a document from the Department of Unemployment Assistance stating that the last requested week for benefits by the appellant was March 19, 2023 to March 25, 2023; and (3) a document showing that the Appellant received \$364 in unemployment compensation on four separate weeks in 2023 (the weeks ending March 4, 11, 18, and 25).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. The Appellant's AGI of \$30,210 was less than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$30,210, could have afforded to pay \$103 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$27,181 and \$33,975 could have spent 4.1% of their earnings on health insurance; 4.1% of \$30,210 is \$1238, and one-twelfth of \$1238 is \$103.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 27 living in Franklin County in January 2023, cost \$327 per month.

12. The Appellant testified that they were terminated from a job around November 2022 and were unemployed for one or two months at the beginning of 2023.
13. The Appellant testified that they were not able to enroll in health insurance at their new job until they had worked there for three months. The Appellant testified that they were able to and did enroll in health insurance at the new job in July 2023.
14. The Appellant testified that they were unaware of the possibility of obtaining subsidized health insurance.
15. The Appellant testified that during the period in which they were uninsured, they paid \$140 per week to their parents, with whom they lived. In addition, the Appellant testified that they paid \$230 per month for a motorcycle. The Appellant testified that they also paid for gas and for insurance for their motorcycle and a car, but that they could remember the amounts of these payments.
16. The Appellant testified that they currently have health insurance through employment.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a 3-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during the months of January through June 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the

private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$103 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$327 per month and therefore was unaffordable for them. Findings of Fact Nos. 10 and 11.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they were unemployed at the beginning of 2023 and then had to wait for three months (*i.e.*, until July 2023) until they could enroll in health insurance through their new employer. Findings of Fact Nos. 12 and 13.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 9. I find, however, that the Appellant effectively did not have access to subsidized insurance because they credibly testified that they were unaware of the possibility of obtaining subsidized health insurance. Finding of Fact No. 14. I further find that the Appellant could not have afforded to pay for health insurance, even on a subsidized basis, during the months in 2023 in which they were unemployed.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 3-month tax penalty in its entirety because the Appellant effectively did not have access to affordable health insurance meeting MCC requirements through the private market, employment, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:   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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA23-258

**Appeal Decision:** The tax penalty is overturned.

**Hearing Issue:** Appeal of the 2023 Tax Year Penalty

**Hearing Date:** July 15, 2024

**Decision Date:** July 25, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on July 15, 2024 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 32 in June 2023. (Exhibit 1).
3. The Appellant resided in Franklin County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$31,919. (Exhibit 1).



5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of April through December 2023. The Appellant was assessed a 6-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. The Appellant's AGI of \$31,919 was less than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$31,919, could have afforded to pay \$109 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$27,181 and \$33,975 could have spent 4.1% of their earnings on health insurance; 4.1% of \$31,919 is \$1308, and one-twelfth of \$1308 is \$109.
10. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 31 living in Franklin County in April 2023, cost \$342 per month.
11. The Appellant testified that they were employed from January to March 2023 at a job that provided health insurance and that they left this job to seek alternate employment.
12. The Appellant testified that they began working at a new job in May 2023 and were told upon hire that they would be enrolled in health insurance as soon as possible. The Appellant testified that they worked at this job for 89 days and that their employer only came to them with health insurance enrollment materials toward the end of their time at the job. The Appellant testified that as a result, they were only enrolled in health insurance for a couple of weeks before they left this job. The Appellant testified that they did not remember how much they paid for this health insurance. The Appellant testified that they left this job because of unworkable working conditions and high exposure to COVID-19. The Appellant testified that their employer was highly disorganized and that it would not surprise them if their employer had failed to send them tax-related documentation concerning their health insurance.

13. The Appellant testified that they began working at a new job in late August or early September. The Appellant testified that this new job was a temporary, part-time job without benefits but that their employer told them that it would lead to permanent, full-time, benefited employment within 60 days. The Appellant testified that they were laid off from this job at the end of January 2024 and that they were never moved into a permanent, full-time, benefited position.
14. The Appellant testified that after they were laid off, they applied for state-supported health insurance and that they are currently enrolled in such insurance. The Appellant testified that they did not apply for state-supported health insurance in 2023 because they spent more than six months expecting to obtain a benefited job position but were not able to do so.
15. The Appellant testified that their entire income in 2023 came from employment and that they did not collect unemployment compensation. The Appellant testified that their earnings were consistent at their jobs.
16. The Appellant testified that they estimated they had the following monthly expenses in 2023: \$120 per month that they paid their mother, with whom they lived, to help with utilities; \$466 for a car payment; \$85 for car insurance; \$160 for gas; \$50 for cellphone; \$300 for groceries; and \$30 for household supplies. The Appellant also testified that they estimated that they spent \$110 on clothes in 2023.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a 6-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of April through December 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$109 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$342 per month and therefore was unaffordable for them. Findings of Fact Nos. 9 and 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. I find credible the Appellant's testimony that their first employer during their uninsured period did not give them the opportunity to enroll in health insurance until the end of their tenure at that position. Finding of Fact No. 12. I further note that if the Appellant had health insurance for only two weeks at this job, as they credibly testified, they would not likely have received a Form MA 1099-HC showing that they had minimum creditable coverage for that month, as a taxpayer is deemed not to have had minimum creditable coverage if they had health insurance coverage for 14 days or less within a month. See <https://www.mass.gov/doc/2023-schedule-hc-instructions/download> (Line 7 instructs tax filers to leave blank the ovals for any month in which they had health insurance coverage meeting MCC requirements for 14 days or less). I also find credible the Appellant's testimony that they did not have access to employer-sponsored health insurance when they worked at the temporary, part-time job from late August or September through the rest of 2023, but that they thought they would obtain such employer-sponsored health insurance. Finding of Fact No. 12.

Third, I find that the Appellant did not have effective access to health insurance meeting MCC standards through a government-subsidized program. The Appellant's income was less than 300% of the FPL, so they theoretically were eligible for government-subsidized health insurance. Finding of Fact No. 8. However, I credit the Appellant's testimony that they did not apply for government-subsidized health insurance because they believed for six months that they were about to obtain a benefited position. Finding of Fact No. 14. I find that this genuine, good faith belief effectively blocked the Appellant from applying for government-subsidized health insurance during their period of uninsurance in 2023. I note that the Appellant testified that they now have government-subsidized health insurance, which supports the idea that Appellant genuinely believed that they were on the verge of obtaining employer-sponsored health insurance in 2023 and were not trying to shirk the individual mandate.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 6-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be

made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

Number of Months Appealed:   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 2023.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with 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: PA212097

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2021 Tax Year Penalty  
**Hearing Date:** March 15, 2024  
**Decision Date:** July 3, 2024

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on March 15, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated April 23, 2022
- Exhibit 3: Hearing Notice dated February 6, 2024
- Exhibit 4: Additional Documents NONE
- Exhibit 5: Hearing Notice dated September 19, 2022, for hearing on October 20, 2022

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 42 years old in 2021. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Middlesex County during 2021 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2021 was \$80,000 (Exhibit 1).
4. Appellant worked in 2020 and 2021 and employer sponsored health insurance was available at a cost of either \$217 or \$449 per month (Testimony of Appellant).
5. Appellant did not sign up for the employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant pursued other options for health insurance that were more affordable (Testimony of Appellant).
7. During 2021, Appellant struggled to pay for necessary expenses (Testimony of Appellant).
8. In addition to expenses for housing, food and clothing, Appellant had expenses for weekly child support of \$275; \$355 for car loan; expenses for children; and a high amount of debt (Exhibit 2 and Testimony of Appellant).
9. In October 2020, Appellant enrolled in a plan for a cost of \$249 per month (Testimony of Appellant).
10. Appellant was enrolled in the plan from October 2020 through June 2021 (Testimony of Appellant).

11. When Appellant prepared income taxes for 2020, Appellant learned that the health insurance did not meet Massachusetts minimum creditable coverage (Testimony of Appellant).
12. When Appellant learned that the plan did not meet the Massachusetts minimum creditable coverage standards, Appellant tried to enroll in the employer sponsored health insurance (Testimony of Appellant).
13. Appellant could not enroll in the employer sponsored health insurance as Appellant did not have a qualifying event for a special enrollment period at that time (Testimony of Appellant).
14. Appellant did enroll in health insurance that met Massachusetts creditable coverage standards beginning in January 2023 and Appellant has had insurance since that date (Testimony of Appellant).
15. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
16. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents with an adjusted gross income of \$80,000 could afford to pay \$533 per month for private insurance. According to Table 4, Appellant, aged 42, filing as single with no dependents and living in Middlesex County could have purchased private insurance for \$294 per month.
17. Private insurance was considered to be affordable for Appellant in 2021 (Schedule HC for 2021).
18. Appellant, earning more than \$38,280 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
19. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 2).
20. Appellant filed an Appeal and a Statement in Support of Appeal appealing the assessment of the penalty on April 23, 2022 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

Appellant has been assessed a tax penalty for twelve months. In early 2021, Appellant was covered by a plan with limited coverage that did not meet the Massachusetts standards. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship.

The health insurance purchased by Appellant was very limited. When Appellant learned that the insurance would not meet the Massachusetts standards, Appellant terminated the insurance and tried to enroll in the available employer sponsored health insurance. Appellant was unable to enroll immediately in the insurance and had to wait until Open Enrollment for the employer’s plan. Appellant did enroll and the coverage began in January

2022. Appellant has continued to be enrolled in coverage meeting the Massachusetts standards during 2022, 2023 and the present. Given these circumstances, I find that the penalty assessed against Appellant for 2021 should be waived in its entirety. See 956 CMR 6.08 (1)(e), Schedule HC for 2021, Exhibits 1, 2 and Testimony of Appellant which I find to be credible.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA212162

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2021 Tax Year Penalty  
**Hearing Date:** March 15, 2024  
**Decision Date:** July 12, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on March 15, 2024. Also present was Appellant's accountant. The procedures to be followed during the hearing were reviewed with Appellant. Appellant and Accountant were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated April 29, 2022
- Exhibit 3: Hearing Notice dated February 6, 2024
- Exhibit 4: NONE
- Exhibit 5: Hearing Notice dated December 24, 2022, for hearing on January 10, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 30 years old in 2021. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Norfolk County during 2021 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2021 was \$105,110 (Exhibit 1).
4. During 2021, Appellant was an international student and also worked (Testimony of Appellant).
5. Appellant purchased health insurance through an organization that sold health insurance for international students (Testimony of Appellant and Accountant).
6. In 2022, when Appellant filed taxes for 2021, Appellant was notified that the insurance did not meet Massachusetts creditable coverage standards and Appellant was assessed a penalty for twelve months (Exhibits 1, 2, and Testimony of Appellant and Accountant).
7. Appellant had previously been unaware that the international student health insurance did not meet Massachusetts standards (Testimony of Appellant).



8. Appellant's coverage for 2021 had a maximum limit for injury or sickness; and did not cover pre-existing conditions for eighteen months (Exhibit 2).
9. When Appellant learned that the health insurance did not meet Massachusetts standards, Appellant terminated the insurance (Testimony of Appellant).
10. In 2022, Appellant enrolled in health insurance that met the Massachusetts standards (Exhibit 2 and Testimony of Appellant).
11. 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.
12. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents with an adjusted gross income of \$105,110 could afford to pay \$701 per month for private insurance. According to Table 4, Appellant, aged 30, filing as single with no dependents and living in Norfolk County could have purchased private insurance for \$263 per month.
13. Private insurance was considered to be affordable for Appellant in 2021 (Schedule HC for 2021).
14. Appellant, earning more than \$38,280 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).
15. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 2).
16. Appellant filed an Appeal and a Statement in Support of Appeal appealing the assessment of the penalty on April 29, 2022 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

Appellant has been assessed a tax penalty for twelve months. In 2021, Appellant was covered by a plan for international students. The plan provided limited coverage that did not meet the Massachusetts standards. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. Appellant was considered able to afford private insurance. We also consider if the insurance substantially met minimum creditable coverage standards.

The Health insurance purchased by Appellant was limited and did not cover pre-existing conditions. It did not substantially meet minimum creditable coverage standards. However, Appellant was an international student and purchased the insurance through a company that sold insurance to International Students. Appellant did not learn that the insurance did not meet Massachusetts until Appellant filed income tax returns in 2022. When

Appellant learned that the insurance would not meet the Massachusetts standards, Appellant terminated the insurance and began coverage that complied with the standards. Given these circumstances, I find that the penalty assessed against Appellant for 2021 should be waived in its entirety. See 956 CMR 6.08 (1)(e), Schedule HC for 2021, Exhibits 1, 2 and Testimony of Appellant and Accountant, which I find to be credible.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221381

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

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

**Hearing Date:** February 16, 2024

**Decision Date:** July 8, 2024

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on February 16, 2024. The procedures to be followed during the hearing were reviewed with the appellant. Appellant was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on May 26, 2023, with health insurance card attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated January 9, 2024 for February 16, 2024 hearing

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2022 Massachusetts tax return jointly as a married couple with one dependent claimed, were both 36 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. One appellant resided in Middlesex County in 2022. The other appellant and the couple's child resided in China. They have resided in China since September, 2021 (Testimony of Appellant, Exhibit 2).
3. The appellant who resides in China has not come back to the United States since she moved to China. The appellant who lives in Massachusetts has not been to China to visit his spouse and his child (Testimony of Appellant).
4. Appellant who resides in China had no health insurance which met the Commonwealth's minimum creditable coverage standards in 2022. The appellant who resides in Massachusetts had health insurance which met the Commonwealth's standards all of 2022. (Exhibit 2).
5. Appellant who resides in China has been assessed a tax penalty for all of 2022. Appellant has appealed the assessment. The other appellant has not been assessed a penalty for any month in 2022 (Exhibits 1 and 2).

### ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage which meets the Commonwealth’s minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant who has been assessed a penalty resided in China all of 2022. She did not visit the Commonwealth during the year. See the Testimony of Appellant which I find to be credible.

Under Massachusetts law, only residents of the Commonwealth are required to have health insurance which meets the state’s minimum creditable coverage standards. See Massachusetts General Laws, Chapter 111M, Section 2. Based upon the testimony of the appellant who resides here, I determine that the other appellant did not reside in Massachusetts in 2022 and was, therefore, not subject to the requirements of Chapter 111M during this period. The penalty is waived in full.

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

## **PENALTY ASSESSED**

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

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

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

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

**cc.** Connector Appeals Unit

Hearing Officer