

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 23-142

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

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

**Hearing Date:** June 13, 2024

**Decision Date:** June 14, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants are a married couple who will be referred to in this decision as Husband and Wife. Both Appellants appeared at the hearing, which was held by telephone, on June 13, 2024. They were accompanied by their daughter who testified. An interpreter assisted at the hearing. The hearing record consists of the testimony of Appellants and their daughter and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (5/15/24) (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of grounds (7 pages)

### **FINDINGS OF FACT**

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

1. Husband was 60 and Wife was 54 at the end of 2023. Exhibit 2.
2. Appellants lived in Plymouth County in 2023. Exhibit 2.
3. Appellants filed their taxes as married filing jointly with no dependents. Exhibit 2. Appellants' household income in 2023, as reported on their 2023 state income tax returns and confirmed at

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 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.

the hearing, equaled \$37,440. This amount represented salary earned by the Wife. Husband did not work. Wife's work did not offer her health insurance as a benefit in 2023.

4. Appellants reported in the Schedule HC that they filed with their 2023 state income taxes that they had health insurance from July through September, but did not have health insurance for the remaining nine months of the year. Exhibit 2.
5. At the hearing, however, their daughter testified credibly that Appellants were covered under a plan obtained through the Health Connector from January through June and then again in October through December. Their daughter was able to identify the health insurer that provided this coverage and the monthly premium that was charged for the coverage, which the daughter said she paid each month for her parents. The information she provided was consistent with the carriers and premiums available through the Health Connector.
6. Appellants were covered through the Health Connector at the start of the year. During the summer, Wife's earnings went down due to a drop in the number of hours that she was able to work. As a result of the drop in income, Appellants qualified for a MassHealth program, which did not have a premium. MassHealth is the name for the Medicaid program in Massachusetts. Medicaid is a federal-state program of health coverage for low-income individuals and it generally is provided without a premium. The financial eligibility limits for MassHealth are generally lower than for Health Connector programs.
7. When Wife's earnings went up again, Appellants no longer qualified for MassHealth and went back to coverage through the Health Connector.
8. Daughter believed that the information in the Schedule HC stating that Appellants were not covered for part of the year was due either to an error on the part of the tax preparer or to the fact that the Appellants did not receive or did not keep a statement from the Health Connector about their months of coverage.

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 include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring a penalty. The Health Connector's "Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00", which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. See also 830 C.M.R. § 111M.2.1(5)(c). In this case, Appellants lacked insurance

for two separate periods of time, the first lasting six months, and the second lasting three months. As a result, they were entitled to two three-month gaps without penalty, and so they each have been assessed a penalty for only three months.

Because Appellants reported on the Schedule HC that they filed with their state income taxes that they did not have health insurance in 2023, they were each assessed a penalty under M.G.L. c. 111M.

However, I have found as fact that Appellants were actually covered throughout 2023, either under MassHealth, the state's Medicaid program, or through the Health Connector, which provides subsidized health insurance to individuals who are income-eligible. The information on the Schedule HC that they submitted with their 2023 state income taxes was incorrect, due either to a tax preparer error or the failure to obtain a statement from the Health Connector regarding their coverage.

Because Appellants were both covered by creditable insurance during 2023, they should not have been assessed the individual mandate penalty. Accordingly, I am allowing this appeal and waiving the penalty.

**PENALTY ASSESSED**

Husband:

Number of Months Appealed: 3

Number of Months Assessed: 0

Wife:

Number of Months Appealed: 3

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 23-143

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

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

**Hearing Date:** June 13, 2024

**Decision Date:** June 14, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 13, 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 (with attachments) (12 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 60 at the end of 2023. Exhibit 2.
2. Appellant lived in Hampden 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 \$32,354.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 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 her 2023 state income taxes that she did not have health insurance at any point in 2023. Exhibit 2.
6. At the hearing, however, Appellant testified credibly that in January and February of 2023, she was receiving health insurance through the Health Connector and was paying a premium. She was able to identify the insurance company and the monthly premium that she paid in order to corroborate this testimony.
7. Appellant was working in January and February, and so had money to pay for health insurance. She was not offered health insurance as a benefit through that work.
8. In March, however, she lost her job. As a result, she had financial problems and was unable to keep paying her premium.
9. Appellant was having trouble meeting her monthly expenses. She ran up a large arrears on her electricity and was in danger of having the utility cut off. See Exhibit 3 (Eversource bills).
10. At some point in 2023, Appellant was treated at a hospital where a financial specialist helped her to apply again for coverage through the Commonwealth.
11. After that, starting in June or July, Appellant believed that she had some form of health coverage. She testified that this coverage required her to go to certain providers in order to get covered treatment. Based on this testimony, I find that she was covered under Health Safety Net, which is a program run by the Commonwealth of Massachusetts. Health Safety Net is not considered health insurance. Instead, it provides reimbursement only to acute hospitals and community health centers for certain services provided to uninsured or under-insured low-income individuals.
12. Appellant maintained that when she tried subsequently to apply for full coverage through the Health Connector, she has not been determined eligible for financial assistance.
13. Appellant stated that she reported on the Schedule HC that she was without insurance all year long, because, when she filed her income taxes on-line, she was unable to enter in the information that she was covered.

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.

At the outset of this analysis, there is a factual question. Appellant maintained at the hearing that she had coverage through the Health Connector in January and February and then again after July. I have found that she testified credibly that she was covered in insurance during January and February, because she was able to identify the insurer and the premium that she paid. The information she provided was consistent with coverage offered by the Health Connector.

However, I have also found that after July, she was not covered in health insurance, but rather was in the Health Safety Net program. That is a program established under state law, which provides reimbursement for emergency and certain limited services rendered by acute hospitals or community health centers to uninsured or underinsured individuals. See Mass. Gen. Laws c. 118E, § 69; 101 C.M.R. § 6.13.03. It does not meet the standards for creditable coverage to satisfy the individual mandate under Chapter 111M. See Mass. Gen. Laws ch 111M, § 1 (definition of creditable coverage). Thus, I find that Appellant had creditable coverage for the first two months of the year, and did not have such coverage for the remaining 10 months.

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://www.mahealthconnector.org/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 10 months out of the year. Therefore, she was entitled to a three-month gap without penalty, and so she should have been assessed a penalty for only seven months.

Because Appellant did not have health insurance for part of 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 either unemployed or employed at a job that did not offer health insurance as a benefit during 2023. Therefore, she could not obtain insurance through employment.

Further, Appellant could not have afforded to purchase health insurance the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$32,354 was deemed able to afford 4.1 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$1,326 annually or \$110 a month. During 2023, a person like Appellant who lived in Hampden County and was 60 years of age would have had to pay a monthly premium of at least \$512 to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would 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 \$32,344 and therefore she was income-eligible for Connector Care. Further, I find that she met the other Connector Care eligibility requirements, which include being a citizen or legal permanent resident of the United States and being a resident of Massachusetts, based on her testimony and on the fact that she had received Connector Care early in 2023.

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 lost her job in March and as a result her income went down significantly. Thus, she believed she could no longer afford the premium she had been paying for Connector Care. That premium had been calculated based on the income Appellant received when she was working. Appellant could have revised her application to reflect her lower income, which should have resulted in a reduction in her premium. However, she was unable to do this because of difficulties she had when attempting to update her account information on line. These difficulties effectively made her unable to obtain Connector Care. Further, Appellant had a misunderstanding of the Health Safety Net coverage she did receive when the hospital financial specialist assisted her in applying. She believed she was covered with insurance, even though she was not.

Further, Appellant has demonstrated that she was in danger of a utility cutoff during the time that she was uninsured because of her financial difficulties. She provided evidence that she had been notified by Eversource that, because of her arrears, she faced shutoff. Receipt of a shutoff notice constitutes grounds for waiver of the individual mandate penalty under 956 C.M.R. § 6.08(1)(b).

Based on the foregoing, I will exercise my discretion to allow this appeal and waive the penalty in full.

At the hearing, Appellant was urged to contact the Health Connector’s customer service office to update her application providing current income information in order to see if she could now qualify for subsidized coverage through the Connector Care program. The number to call the Health Connector is 877-623-6765.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 23-144

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

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

**Hearing Date:** June 13, 2024

**Decision Date:** June 14, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 13, 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 (with attachments) (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 46 at the end of 2023. Exhibit 2.
2. Appellant lived in Worcester County in 2023. Exhibit 2.
3. Appellant filed her taxes in 2023 as a head of household with one dependent. Exhibit 2. In fact, Appellant lived with three minor children whom she supported. Under her divorce agreement, she and her former husband alternated years in which they took either one or two children as tax dependents.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 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.

4. Appellant's household income in 2023, as reported on her 2023 state income tax returns and confirmed at the hearing, equaled \$29,642.
5. Appellant reported in the Schedule HC that she filed with her 2023 state income taxes that she did not have health insurance from January through July but that she did have such insurance from August through December. Exhibit 2.
6. At the start of the year, Appellant was self-employed. She stated that her business did not generate any income during that period, and that she took a loss on her taxes.
7. At the end of May, she obtained a regular paying job. She had a probationary period in that job before she was eligible to receive benefits. When she became eligible, she enrolled in health insurance effective August 1. She was still insured as of the date of the hearing.
8. Her three children were insured under their father's insurance plan through his work.
9. During the time that she was self-employed, Appellant was experiencing financial difficulties. As a result, she was unable to make mortgage payments. She received several notices from her mortgage lender that she was significantly overdue and requesting that she take action to address the arrears. See Exhibit 3 (Mr. Cooper notices).

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://www.mahealthconnector.org/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 seven months out of the year. Therefore, she was entitled to a three-month gap without penalty, and so she was assessed a penalty for only four months.

Because Appellant did not have health insurance for part of 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

During the period that she was uninsured, Appellant was either unemployed or employed at a job in a probationary period waiting to become eligible for benefits. Therefore, she could not have obtained insurance through employment during that time period.

Further, Appellant could not have afforded to purchase health insurance the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of two persons and had annual income of \$29,642 was deemed able to afford 4.3 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$1,274 annually or \$106 a month. During 2023, a person like Appellant who lived in Worcester County and was 46 years of age would have had to pay a monthly premium of at least \$358 to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would 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 \$29,642 and therefore she was income-eligible for Connector Care.

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. During the time that she was uninsured, Appellant was experiencing significant financial stress. As a result, she was several months in arrears on her mortgage payments. Under Health Connector regulations, having arrears of 30 days or more on mortgage payments constitutes grounds for waiver of the individual mandate penalty. See 956 C.M.R. § 6.08(1)(a). Thus, Appellant has stated grounds that qualify for a waiver.

Further, I note that Appellant did enroll in health insurance as soon as she started working and was offered insurance as a benefit.

Based on the foregoing, I conclude that Appellant is entitled to a hardship waiver. Therefore, I will allow this appeal and waive the penalty in full.

#### **PENALTY ASSESSED**

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

If the number of months assessed<sup>4</sup> is zero (0) because 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 23-145

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

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

**Hearing Date:** June 13, 2024

**Decision Date:** June 14, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 13, 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 (with attachments) (24 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 62 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes in 2023 as single 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 \$87,471.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 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 had health insurance from January through August but did not have any from September through December. Exhibit 2.
6. Throughout the year, Appellant was employed as a server at a high-end restaurant. He was covered under health insurance offered through his employer for the first part of the year.
7. During the summertime, business at the restaurant slowed down and as a result, his employer reduced the number of hours that Appellant worked. This reduction in hours was not Appellant's choice.
8. In August, the employer held an annual enrollment period during which employees were required to enroll in health coverage for the upcoming year. At that time Appellant was informed that as a result of his reduction in hours, he had not worked the average number of hours needed to be eligible for benefits, and so he could not enroll.
9. As a result, Appellant's health coverage ended effective September 1. Even though his hours worked increased thereafter, he was unable to enroll in coverage again until the next open enrollment period, which will occur in August 2024.
10. As a result of the reduction in hours and consequent loss of pay, Appellant experienced financial difficulties and was required to run up credit card debt. See Exhibit 3 (Experian report.)

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://www.mahealthconnector.org/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 was assessed a penalty for only one month.

Because Appellant did not have health insurance for part of 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 period that he was uninsured, Appellant was not eligible for insurance through his employment because his hours had been reduced below the amount that was considered benefits-eligible. Therefore, he could not have obtained insurance through employment during that time period.

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 \$87,471 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase health insurance the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$87,471 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$6,997 annually or \$583 a month. During 2023, a person like Appellant who lived in Middlesex County and was 62 years of age could have obtained insurance at a monthly premium of \$490. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

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. Appellant lost health insurance through work because of an involuntary reduction in hours. This of course carried with it a reduction in income. During the period when his income was reduced, Appellant was experiencing financial stress. As a result, he had incurred significant credit card debt, which further added to his financial strain. Because his income fluctuated during the year, it would be inequitable to use his annual income as a measure of his ability to pay for health insurance during the period when he was under-employed and consequently uninsured. Further I take into account the facts that Appellant did enroll in health insurance when he was offered that benefit through work and that he stated he intended to enroll in health insurance at the open enrollment in 2024, when he would again be eligible.

Based on the foregoing, I will exercise my discretion and allow this appeal, waiving the penalty in full.

#### **PENALTY ASSESSED**

Number of Months Appealed: 1      Number of Months Assessed: 0

If the number of months assessed<sup>4</sup> is zero (0) because 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: PA23-46

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

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

**Hearing Date:** May 8, 2024

**Decision Date:** May 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**

Appellant filed her 2023 tax return as Single with no dependents. 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 February 26, 2024.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 43 in January 2023, and he filed her Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Worcester County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$75,036 (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 her Federal Tax return as Single with no dependents, with an annual adjusted gross income of \$75,036 could afford to pay \$500 per month for health insurance. In accordance with Table 4, Appellant, age 43 living in Worcester County, could have purchased private insurance for \$358 per month. Private insurance was affordable for Appellant.
8. Appellant testified that she was employed full time on a seasonal basis in 2023 and stated her employer did provide a health insurance benefit to employees, but she was not eligible for participation (Appellant Testimony and Exhibit 3). She said she did inquire to the Massachusetts HealthConnector website and testified that she was informed that her income was too high for participation so she ended this inquiry. In addition, she stated that she looked for a policy on her own, but the quotes were not affordable. She stated she now has health insurance via the MHC (Appellant Testimony).
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).
10. Appellant testified her income fluctuated throughout the year and she collected unemployment compensation insurance during the off season (fall and winter) and estimated that her monthly living expenses in 2023 exceeded \$2,600 - including a rent payment. She further testified that her boyfriend recently moved into her home and she was able to pay off a personal loan and can now afford health insurance through the Health Connector. (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 her Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$75,036, could afford to pay \$500 per month for health insurance. According to Table 4, Appellant age 43, living in Worcester County, could have purchased a private insurance plan for \$358 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 her 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 her employer provided a health care insurance benefit to employees, but that she was not eligible to participate as a seasonal employee. She testified further that she inquired to the HealthConnector and was provided a quote she could not afford and stated she searched the internet for affordable plans and found none.

Appellant testified credibly that her employer's plan was not accessible and the quote she received from the Health Connector in 2023 she found too expensive. She added that this year she finally purchased a health insurance plan through the HealthConnector after paying off a personal loan and many years of being uninsured. She testified to monthly expenses over \$2,600 in 2023.

Appellant's Adjusted Gross Income was substantial enough in 2023 to purchase a health insurance plan. She could afford to pay \$500 a month according to Table 3 and a plan in Worcester County would have cost \$358 per month according to Table 4. Other than her monthly living expenses, she did not testify or offer documents to support a reason she could not afford a health insurance policy in 2023. Her monthly expenses were towards the higher end and purchasing a plan could have caused a partial economic strain in her finances. In addition, she testified that she did purchase a health insurance plan for 2024.

In light of these facts, I am exercising my discretion as the Hearing Officer and Appellant's penalty is partially waived. The penalty for 2023 of twelve months is reduced to six months.

The Appellant should note that the partial 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: 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

FINAL APPEAL DECISION: PA23-48

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

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

**Hearing Date:** May 8, 2024

**Decision Date:** May 30, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed her 2023 tax return as Head of Household with one dependent. 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 February 28, 2024.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 41 in January 2023, and she filed her Federal Income Tax return as Head of Household with one Dependent (Exhibit 2).
2. The Appellant lived in Bristol County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$41,833 (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 her Federal Tax return as Head of Household with one dependent, with an annual adjusted gross income of \$41,833 could afford to pay \$216 per month for health insurance. In accordance with Table 4, Appellant, age 41 living in Bristol County, could have purchased private insurance for \$898 per month (Family Plan). Private insurance was not affordable for Appellant.
8. Appellant testified that she was employed full time in 2023, but her employer did not provide health insurance as a benefit. She said she did search for a health insurance policy on the Health Connector, but had no success as her credentials were not approved to search the site.
9. The Appellant's income was less than 300% of the federal poverty level, which was \$54,930,770 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2). Appellant stated that she was denied MassHealth after applying for benefits.<sup>1</sup> Appellant's income was over the income requirements for 2023.
10. Appellant testified her estimated monthly living expenses in 2023 exceeded \$2,600 - including a rent payment. She further testified that her daughter is currently six years old and she provides all financial support for her child. She stated her boyfriend now lives with her, but she is responsible for the expenses she testified to. She concluded that she does not currently have health insurance (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.

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<sup>1</sup> The Hearing Officer requested additional information on this subject, in retrospect, this material is not needed since a penalty waiver is being granted for an economic hardship.

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 her Federal tax return as Head of Household, with one dependent claimed and with an adjusted gross income of \$41,833, could afford to pay \$216 per month for health insurance. According to Table 4, Appellant age 41, living in Bristol County, could have purchased a private insurance (Family plan) for \$898 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 ConnectorCare coverage based upon her income that was less than 300% of the federal poverty level which was \$54,930 for a household of two 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 she inquired to the HealthConnector and could not access the site. Appellant testified credibly that her full-time employer did not provide health insurance as a benefit. She added that her boyfriend who has minor children whom he supports now lives with her, but they split expenses. She testified to monthly living expenses over \$2,600.

Appellant's income was not high enough in 2023 to purchase a health insurance plan. She could afford to pay \$216 a month according to Table 3 and a plan in Bristol County would have cost \$890 per month according to Table 4. Her monthly expenses were high and purchasing a plan would have caused an economic hardship to her finances as the premiums would have consumed a large share of her take-home income. She did not qualify for MassHealth and she experienced difficulties in applying for a HealthConnector Plan.

In light of these facts, the Appellant's penalty for 2023 is waived in its 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



FINAL APPEAL DECISION: PA23-49

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

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

**Hearing Date:** May 8, 2024

**Decision Date:** May 31, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed his 2023 tax return as Single with no dependents. Appellant appeared at the hearing and his mother provided testimony. The Hearing was held by telephone, on May 8, 2024. The procedures to be followed during the hearing were reviewed with Appellant and the witness who were 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 February 26, 2024.
- Exhibit 4: 2023 Form 1095 B for Appellant and Letter from Mass Health indicating that Appellant was covered by a MassHealth policy for the entire year of 2023 received in response to an Open Record request from the Hearing Officer.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 18 in January 2023, and he filed his Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Plymouth County in 2023 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$20,874 (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 his Federal Tax return as Single with no dependents, with an annual adjusted gross income of \$20,874 could afford to pay \$49 per month for health insurance. In accordance with Table 4, Appellant, age 18 living in Plymouth County, could have purchased private insurance for \$312 per month. Private insurance was not affordable for Appellant.
7. Appellant testified that he was employed part time in 2023 and stated his employer did not provide a health insurance benefit to employees (Appellant Testimony and Exhibit 3). Appellant's mother testified that Appellant was told he was no longer qualified for MassHealth at some point in 2023 and his tax return did not allow to note this when he filed in 2023 (Appellant Testimony and Exhibits 3 and 4).
8. 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). Appellant's salary would have made him eligible for MassHealth.
9. Appellant testified that he does not currently have health insurance and did not inquire to the HealthConnector for a policy in 2023. In addition, Appellant credibly testified that he had monthly living expenses of approximately \$450 per month 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 filing his Federal tax return as Single, with no dependents claimed and with an adjusted gross income of \$20,874, could afford to pay \$49 per month for health insurance. According to Table 4, Appellant age 18, living in Plymouth County, could have purchased a private insurance plan for \$312 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 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 have qualified for MassHealth based on the income requirements in 2023.

Appellant testified that his part-time employer did not provide a health care insurance benefit to employees. Both he and his mother testified that he was covered by a MassHealth Plan for most of 2023. Both Appellant and his mother expressed confusion as to if and when Appellant was denied coverage by MassHealth. The documents he provided in response to an Open Record request clearly demonstrate that Appellant was covered for all 12 months of 2023. The letter from MassHealth explicitly proves that Appellant was covered by a policy that meets the MCC requirements of Massachusetts law.

Appellant's mother stated there were limited choices on the Massachusetts Tax Return and this is likely the reason for the penalty. Appellant testified to monthly living expenses of \$450 in 2023 and stated that he is not currently employed.

Appellant's Adjusted Gross Income was just barely above the 150% Federal Poverty Level in 2023. He could afford to pay \$49 a month according to Table 3 and a plan in Plymouth County would have cost \$312 per month according to Table 4.

In light of these facts, I find the Appellant was insured for 2023 in compliance with Massachusetts law and his penalty for 2023 is waived in its entirety. Appellant should consider filing an amended 2023 tax return to correct the information regarding his coverage.

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: 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

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

**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 3/15/2024.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 3/15/2024.	(1 P).
Exhibit 2(b):	Car Insurance Expense Document	(2 P).
Exhibit 2(c):	NJ Surcharge Payment Documentation	(2 PP).
Exhibit 2(d):	Health Provider Invoice	(3PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 5/15/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2023 Massachusetts tax return filed single with a family size of 1, was age 28 in 2023, lived in Suffolk County. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2023 was \$35,268. (Exhibit 1).
3. The Appellant credibly testified she was paid hourly and not offered Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

4. The Appellant credibly testified that she was moving from New Jersey (which did not have a mandate) and was unable to become eligible for the Connector because she had a NJ License. (Appellant's Testimony).
5. According to Table 3 Appellant could have afforded \$142.54 per month for health insurance in 2023. According to Table 4 Appellant could have purchased insurance for \$326.00 per month.
6. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family size of one (1). (See Table 2 of Schedule HC 2023, Appellant's Testimony).
7. The Appellant testified that her monthly living expenses in 2023 included: Contribution to boyfriend for living expenses: \$1,000, Car Insurance: \$137, Transportation Costs: \$800: Cell Phone: \$60, Credit Card: \$135, NJ Surcharge: \$200: totalling \$2,332. (Appellant's Testimony, Exhibits 2(a)-(c)).
8. The Appellant testified her approximate monthly net take home pay was \$2,000. (Appellant's Testimony).
9. The Appellant incurred out pocket medical fees with a balance of \$1,433.60. (Appellant's Testimony, Exhibit 2(d), Appellant Testimony).
10. 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, \$35,268 was less than 300% of the federal poverty level, which for 2023 was \$40,770.00 for a filing of single separately with a family size of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$142.54 per month. According to Table 4, Appellant, age 31 and living in Plymouth County during the time she was being penalized for not having insurance, could have purchased insurance for \$360 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 Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant credibly testified that she was not offered ESI. (Appellant's 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). 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 did not have access to ESI. (Appellant's Testimony).

Given that ESI was not available, but government sponsored insurance was available to the Appellant, 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's testimony credible that she was not able to purchase insurance at \$142.54 per month given her net monthly income of approximately \$2,000 and the cost of her monthly basic necessities of approximately \$2.332, excluding the \$1,433.60 balance owed for out pocket medical fees. (Appellant Testimony, Exhibit 2(d)). Accordingly, I find that the Appellant met the hardship criteria, and

that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, the Appellant's assessed tax penalty of twelve (12) months is waived in full for these reasons.

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**.

#### **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.

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

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

Cc:     Connector Appeals Unit

Hearing Officer

#### **ADDENDUM**

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



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-154

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

**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 3/19/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 3/19/2024.	(1 P).
Exhibit 2(b):	Documents including Bank Expenses submitted in Support of Appeal.	(3 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 5/15/2024.	(2 PP).

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 32 in 2023, lived in Middlesex County, and had (0) dependents and a family size of 1. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$34,564. (Exhibit 1).
3. The Appellant had public sponsored insurance through July 2023 and is not sure why he lost it. (Exhibit 1, Testimony).
4. The Appellant, who is being penalized for three (3) months, testified he worked part time and could not afford the premium for Employer Sponsored Insurance but did not know the amount of the (“ESI”). (Testimony).
5. The Appellant testified he received approximately \$400 a week and was paid hourly at \$16.88 per hour and worked from 28-35 hours a week. (Testimony).
6. According to Table 3 Appellant could have afforded \$139.70 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$326.00 per month. (See Tables 3 and 4 of Schedule HC 2023).

7. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
8. The Appellant testified that his monthly living expenses in 2023 included: Rent: \$2,003, Utilities: Internet: \$50, Cell Phone: \$160, Food/Incidentals: \$50, Stepmother's insurance: \$165, totaling \$2,478. (Testimony, Exhibits 2(a)-(b)).
9. The Appellant testified that he contributes to his stepmother's insurance because she is dependent and needs it. (Exhibit 2(a), Testimony).
10. 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 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 incurred a significant, unexpected expenses directly for providing the cost of care for a family member. The Appellant also adduced testimony that he could not afford health insurance 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, \$34,564 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have been paid \$139.70 per month. According to Table 4, Appellant, age 32 in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$326 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 Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that he was eligible for ESI but did not know the cost and despite not knowing the cost he could not afford it. (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, as referenced above, the Appellant was eligible for affordable ESI (Appellant Testimony).

Given that public sponsored insurance was available to the Appellant, we 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 not have afforded \$139.70 per month during the times he was being penalized given that his net monthly income of approximately \$1,600 compared to the cost of his monthly basic necessities of approximately \$2,478. Accordingly, I find that the Appellant has met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). Accordingly, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**.

#### **PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA23-159

**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:** 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**

Appellant filed her 2023 tax return as Married Filing Jointly. Appellant's spouse appeared at the hearing and stated he spoke on behalf of his wife. The Hearing was held by telephone, on June 11, 2024. The procedures to be followed during the Hearing were reviewed with Appellant's spouse who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's spouse'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 19, 2024, with attachments.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 28 in January 2023, and she filed her Federal Income Tax return as Married Filing Jointly (Exhibit 2).
2. The Appellant lived in Worcester County in 2023 (Exhibit 2, 3 and Appellant's Spouse Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$96,699 (Exhibit 2).
4. Appellant did not have health insurance for five months of 2023 (Appellant's Spouse Testimony).

5. Appellant has been assessed a two-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 her Federal Tax return as Married Filing Jointly, with an annual adjusted gross income of \$96,699 could afford to pay \$645 per month for health insurance. In accordance with Table 4, Appellant, age 28 living in Worcester County, could have purchased private insurance for \$624<sup>1</sup> per month. Private insurance was affordable for Appellant.
8. Appellant's spouse testified that he was employed full time in 2023, and had health insurance through his full-time employer. He explained that his wife was terminated from the MassHealth coverage in January 2023 after being initially approved for a policy. He added that this policy cost \$403.57 per month. He further explained that he then attempted to get his wife covered by his work policy, but was not successful and was told he did not supply adequate proof of termination from her previous policy. He stated he was able to add her to his employer sponsored plan in July of 2023. (Appellant Spouse Testimony and Exhibit 3).
9. The Appellant's income was more than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. Appellant's spouse testified that the couple's estimated monthly living expenses in 2023 exceeded \$2,000 - including a rent payment and sending financial support to relatives abroad (Appellant Testimony).

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

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

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<sup>1</sup> This is the amount for a married couple with no dependents. The amount for a 28-year-old individual is \$312. Either amount is affordable to the Appellant based on the AGI for 2023.

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 her Federal tax return as Married Filing Jointly and had an adjusted gross income of \$96,699. She could afford to pay \$645 per month for health insurance. According to Table 4, Appellant age 28, living in Worcester County, could have purchased private insurance for \$624 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 their income that was more than 300% of the federal poverty level which was \$54,930 for a household of two 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's Adjusted Gross Income was high enough in 2023 to purchase a health insurance plan and would not have resulted in an economic hardship. She could have afforded the Health Connector quote received. The couple's monthly expenses were not high enough to preclude purchasing a plan. Appellant's spouse testified that Appellant was approved for MassHealth coverage beginning in 2023, then was terminated due to income requirements. He referred to documents received from MassHealth which are included in the file (Exhibit 3). He testified to monthly living expenses over \$2,000.

Appellant's spouse testified credibly that the Appellant had MassHealth coverage starting in 2023. However, a review of the documents in the file reveal that the Appellant was enrolled in a Health Connector Plan with Advance Premium Tax Credits (See Exhibit 3 Letter from MassHealth dated 1/19/2023, informing Appellant she does not qualify; and Letter from the Massachusetts Health Connector (MHC) dated 1/21/2023, informing her of her plan and the premium). Appellant and her spouse refer to the MHC letter as coming from MassHealth (See Exhibit 3, Letter from Appellant and Appellant's spouse Testimony). Appellant's spouse was also believable when he stated that he tried to get his wife covered under his employer's plan and was not successful. The confusion and failure to

enroll in the employer sponsored plan resulted in the Appellant having no insurance for the five-month period.

The confusion by Appellant and her spouse is understandable, given both programs are run by the Commonwealth of Massachusetts and Appellant applied to both in the same time frame. Due to the confusion of the Appellant and the fact that she demonstrated a desire to be insured, evidenced by her becoming insured in July of 2023, I am exercising my discretion as the Hearing Officer and waiving the penalty. The Appellant's penalty of two month 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: 2      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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. PA23-113

**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 6, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (typed + handwritten update);
5. First Bill Collector – PNC Bank (dated 12/21/2022);
6. Hospital Bill for \$6,264 (dated 4/22/23);
7. Second Bill Collector for Texas Employer);
8. Health Connector 2023 Eligibility History (6/27/23, 3/19/23, and 10/14/23);
9. Health Connector Application for 2024 (dated 11/11/23);
10. Rent Arrears Payment Application;
11. 2023 IRS 1095-C (Sumner WA Employer); and



12. 2023 IRS 1095-C (Austin TX Employer).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2023. The basis for the penalty was that the Appellant was not insured at any time in 2023. Exhibits 1 and 2.
2. Based on the Appellant's appeal hearing testimony that I found to be credible I conclude that the 12 penalty assessment is erroneous. In July 2023 the Appellant switched to a new job (the Summer WA Employer) that provided her with health insurance benefits for the months of July through December 2023. After the three-month administrative grace period is applied the penalty assessment is reduced to three months. See also Exhibits 4, 11 and 12.
3. 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 \$43,187. Exhibit 43,187. Exhibit 1.
4. The Appellant was 23 years old at the beginning of 2023 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
5. The Appellant's 2023 AGI (\$43,187) 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. See Exhibits 8 and 9 (Health Connector applications).
6. Based on DOR Table 3 the Appellant could afford to pay 7.45% of her income -- or \$268 per month -- for health insurance coverage in 2023. (The calculation is 7.45% multiplied by \$43,187 AGI = \$3,217.43 per year divided by 12 months = \$268.11 per month.)

7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$312 per month in 2023.
8. The Appellant initially moved to Massachusetts to attend college. The coronavirus pandemic (COVID-19) compelled her to drop out of college and obtain multiple jobs to support herself. Exhibit 4 and Testimony.
9. The Appellant obtained a job that offered her health insurance benefits but she was not able to pay her portion of the monthly premium. Exhibits 4 and 11 and Testimony.
10. The Appellant subsequently obtained a new job in July 2023 that paid her better, and the Appellant promptly enrolled in the health insurance plan offered by her new employer. Exhibits 4 and 12 and Testimony.
11. The Appellant prepared her own 2023 state income tax return and submitted two 2023 IRS 1095-C forms from her two employers as evidence of her health status. The Appellant did not submit Massachusetts forms (2023 MA Form 1099 – HC) that would have clarified her health insurance status in 2023. Testimony and Exhibits 11 and 12.
12. The Appellant suffered from chronic pain and sustained a substantial hospital bill. Testimony and Exhibits 4 and 6 (\$6,264). The Appellant was also subject to collection efforts by two bill collectors. Exhibits 4, 5 and 7 and Testimony.
13. The Appellant was also behind in her rent payments. She approached a community organization for help with her rent. Testimony and Exhibit 10.
14. The Appellant's parents were not able to help the Appellant financially. Instead, the parents approached the Appellant for financial help, which she was not able to provide. Testimony and Exhibit 4.
15. I credit the Appellant's testimony about the difficulty she encountered feeding herself (and her cat). Exhibit 4 and Testimony.
16. After the Appellant obtained a new job and enrolled in her employer's health insurance plan, the Austin, Texas employer abruptly closed its doors in

Massachusetts in March 2024 with only six days advance notice, no severance pay, and the loss of health insurance coverage. Testimony and Exhibit 4 (handwritten addition).

17. 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 12 month tax penalty because the Appellant did not have health insurance coverage in 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.

The objective affordability data set forth in DOR Tables 3 and 4 resolves the appeal in the Appellant’s favor. Under DOR Table 3 the Appellant could afford to pay \$268 per month for health insurance while she would have to pay \$312 per month for health insurance at her age and location. See Mass. Gen. Laws c. 111M, sec. 2 (a), above. See Findings of Fact, Nos. 6 and 7, above.

The factual evidence of health insurance coverage also favors the Appellant. The Appellant obtained a new job with health insurance coverage in July 2023 and was insured for the remainder of 2023. Based on these facts, the penalty assessment for January through June would be six months, not twelve months. The penalty would be further reduced to three months under the administrative grace period.

In addition to the foregoing, the Appellant presented substantial evidence of financial hardship, which is summarized in Exhibit 4 and bolstered by the remaining exhibits supplied by the Appellant. In particular, I point to her evidence of the difficulty obtaining sufficient food many days.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant 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:   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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-114

**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 7, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023);
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Health Connector – Payment Amounts (\$21.58 for September and October 2023; and \$29,99 for October 2023 and March 2024).
6. Apple Credit Card (\$375.46 balance);
7. Discover Credit Card (\$1,200.28);
8. Capitol One Credit Card (\$1,763.38);
9. Case Credit Card (\$250);
10. Play Station (\$450.46);

11. MassGeneralBrigham Hospital (\$75); and
12. MassGeneralBrigham Hospital (Family Charges + Safety Net).

### **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2023. The basis for the penalty was that the Appellant was not insured for the months of January – September 2023), was insured for the months of October and November 2023, and was not insured for the month of 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 2 months insured (October and November) = 10 months uninsured minus a 3-month administrative grace period for the months of July – September and a 1 month administrative grace period for December 2023.)
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 \$29,262. Exhibit 1.
3. The Appellant was 28 years old at the beginning of 2023 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$29,262) was less 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 satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.10% of her income -- or \$100 per month -- for health insurance coverage in 2023. (The calculation is 4.10% multiplied by \$29,262 AGI = \$1,199.74 per year divided by 12 months = \$99.97 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$312 per month in 2023.



7. In her appeal the Appellant asserted, with reason, that she was not able to afford to pay either a monthly premium asserted by the Health Connector or an Employer. This is reflected in the Appellant's health insurance enrollment for 2023 where the Appellant was enrolled in a health insurance plan through the Health Connector for the months of October and November and the termination of her insurance for December 2023. Exhibit 4 and Testimony. See also Exhibit 5.
8. The Appellant asserted that she could not enroll in health insurance coverage for 2024 (following the termination of her two-month coverage in 2023) because the cost increased from \$50 per month to \$170 per month. (While I accept the Appellant's assertion that the health insurance cost increased year-to-year, I note that the hearing record does not include verification of costs. See also Exhibit 5 which provides different data.)
9. The Appellant's living expenses includes balances owed on 4 credit cards: Apple (\$375), Discover (\$1,200), Case (\$250), and Capital One (\$1763). The Appellant also owed \$450 for Play Station. See Exhibits 6 – 10.
10. The Appellant incurred medical expenses for which she owed MassGeneralBrigham Hospital. Part of these costs were covered by the Health Safety Net, an indication of a lower income patient who lacks conventional health insurance. See Exhibits 11 and 12.
11. The Appellant asserted that living expenses such as groceries and rent meant that she could not afford health insurance premiums, but she provided no estimate of the amount of her living expenses. See Exhibit 4.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2023 Massachusetts income tax return.
13. 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 6 month tax penalty because he 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.

This 2023 appeal is best addressed through the requirement that health insurance must be affordable. See Mass. Gen. Laws c. 111M, sec. 2 (a) (above). DOR Tables 3 and 4 provide objective standards of affordability. Under DOR Table 3 the Appellant could afford to pay \$100 per month for health insurance based on her income and her age. But under DOR Table 4 the Appellant would have to pay \$312 per month for health insurance. See Findings of Fact, Nos. 5 and 6, above. The Appellant is not subject to a penalty since the calculations under DOR Tables 3 and 4 show that she could not afford health insurance on her \$29,262 federal adjusted gross income (AGI).

In addition to DOR Tables 3 and 4 above, the credit card balances that the Appellant incurred at a young age are an indication of financial difficulties beyond wages and expenses. See, e.g., Findings of Fact, No. 9, above. See also Findings of Fact, No. 10, above (medial expenses).

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant 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.”). The Appellant should not assume, however, that penalties that may be assessed in future years will also be waived or reduced, as she needs to comply with the legal requirement in what is known as the “individual mandate” (see above). **SEE MY RECOMMENDATION BELOW.**

**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 2022.

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

**RECOMMENDATION.** I recognize that you have dealt with the Health Connector but that you have not succeeded in resolving your health insurance problem. I urge you to continue dealing with the Health Connector, especially as the eligibility standards are increasing (telephone Customer Service at 1-877-623-6765 and/or use the Connector's website at [www.mahealthconnector.org](http://www.mahealthconnector.org). )

In addition I urge that you consult a private, non-profit organization known as **HEALTH CARE FOR ALL** for additional help. You can reach the free consumer hot line at 1-800-272-4232 and/or consult the website at [www.hcfama.org](http://www.hcfama.org).



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA23-117

**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.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2023;
3. Health Connector’s Notice of Hearing (2 pages);
4. Landlord’s Notice to Vacate for Nonpayment of Rent (dated 3/1/23);
5. New Landlord’s Lease at Increased Rent);
6. Appellant’s Letter Summarizing Reasons for Appeal;
7. Eversource (gas utility) – Monthly Bills (February (\$118) + March (\$69);
8. Eversource (electric utility) – July Bill (\$146);
9. Car Payment;
10. Car Insurance; and
11. Capital One Credit Card.

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2023. The basis for the penalty was that the Appellant was not insured at any time in 2023. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2023 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2023 was \$36,612. Exhibit 1.
3. The Appellant was 28 years old at the beginning of 2023 and resided in [name of city or town omitted] in Hampden County, Massachusetts. Exhibit 1.
4. The Appellant's 2023 AGI (\$36,612) was less 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 satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 4.85 % of her income -- or \$148 per month -- for health insurance coverage in 2023. (The calculation is 4.85 % multiplied by \$36,612 AGI = \$1,775.68 per year divided by 12 months = \$147.97 per month.)
6. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at her age and location for \$327 per month in 2023.
7. In March 2023 the Appellant's Landlord served a Notice to Vacate on the Appellant. The basis for the Notice to Vacate was that the Appellant was five months behind in her \$1,200 per month rent payments (November through March). Exhibit 4. See also Exhibit 6 and Testimony.

8. A new landlord purchased the property and increased the Appellant's rent from \$1,200 per month to \$1,600 per month. Exhibit 5. See also Exhibit 6 and Testimony.
9. In Exhibit 6 the Appellant gave a detailed summary of the reasons why she could not afford to pay for health insurance in 2023 and she supported her letter in other documents in the hearing record. I find the Appellant's summary credible.
10. In addition to rent, the Appellant's reasons include the cost of gas and electric utility service (\$118 + \$146 per month), car payments (\$254 per month) and car insurance (\$ 140) and car operating costs (\$120) for the Appellant's job), and credit card expenses (1,003). The Appellant also estimated food costs at \$150 per month, and he noted that her work hours had been reduced. Exhibit 6 and other Exhibits plus Testimony.
11. The Appellant summarized her financial situation as "drowning in debt." Exhibit 6.
12. The Appellant's effort to obtain health insurance through the Health Connector (and/or Mass. Health) was not successful. The Appellant was told that she "made too much" for government-subsidized health insurance. Exhibit 6.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2023 Massachusetts income tax return.
14. 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 12 month tax penalty because the Appellant did not have health insurance coverage in 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, the Appellant has provided detailed reasons why she could not afford health insurance in 2023. I concur that health insurance was not affordable, but I will approach the problem from a different direction. DOR Tables 3 and 4 set forth objective standards of affordability that can be applied to the Appellant federal adjusted gross income (AGI) for 2023. Under DOR Table 3 the Appellant could afford to pay only \$148 per month for health insurance, but DOR Table 4 establishes that the Appellant would have to pay \$327 per month. See Findings of Fact, Nos. 5 and 6, above. Consequently, health insurance was not affordable under DOR Tables 3 and 4. See Mass. Gen. Laws, ch. 111M, sec. (2)(a), above.

Though the evidence is limited (I note that the Health Connector did not participate in the appeal), I accept the Appellant's assertion that her effort to apply for health insurance through the Health Connector was not successful because she earned too much in 2023. The Appellant's response was two-fold. First, she noted that her landlord initiated an eviction action because she was five months behind in her rent payments and that her new landlord increased her rent by \$400 per month to \$1,600 per month. Second, the Appellant showed her living expenses, as summarized in Exhibit 6.

For the foregoing reasons I conclude that it is appropriate to waive the entire 12 month penalty that the DOR assessed for 2023. See 956 Code Mass. Regs. 6.08 (1) (a) ("more than 30 days in arrears in rent") and 6.08 (1) (e) ("[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him [her] to experience a serious deprivation of food, shelter, clothing or other necessities.").

The Appellant should not, however, assume that any penalties that may be assessed in future years will also be vacated or reduced, and she should take appropriate steps to comply with the "individual mandate" as required by Massachusetts law. **SEE MY RECOMMENATION BELOW.**

**PENALTY ASSESSED**

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

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

**RECOMMENDATION:** You should continue to see health insurance coverage through the Health Connector since your income is likely to change and the Health Connector's financial eligibility standards are also changing (telephone Customer Services at 1-877-623-6765 and/or consult the website at [www.mahealthconnector.org](http://www.mahealthconnector.org) or use a drop in center if one is near you).

I also suggest that you first seek help outside the Health Connector. HEALTH CARE FOR ALL is a private, non-profit organization outside the government that helps people with health insurance problems. You can use the free telephone hot line at 1-800-272-4232 and/or consult the website at [www.hcfama.org](http://www.hcfama.org).



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221239

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

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

**Hearing Date:** January 22, 2024

**Decision Date:** June 11, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 22, 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 December 7, 2023 for January 22, 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 27 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$106,281 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant was an independent contractor for a company from January through August. His gross pay during these months was about \$58,000. In September, Appellant was hired by the same company as a full-time employee. His salary increased by about a third during the rest of the year (Testimony of Appellant).
5. Appellant was not offered health insurance when he was an independent contractor. Appellant wanted to have insurance, so he looked online to find coverage. Appellant thought he was dealing with the Connector, but he was actually dealing with a private company. He purchased a plan which he was told met the Commonwealth's minimum creditable coverage standards. The plan, however, did not meet the Commonwealth's standards. He realized the plan was not comprehensive when he went for a physical and the insurance did not cover blood work. The plan was actually underwritten by Alfac. Appellant paid \$100 a month for the plan (Testimony of Appellant).

6. In September, 2022 when Appellant became a full-time employee, he was offered health insurance which met the Commonwealth's standards. He enrolled in the plan and had compliant coverage the rest of the year. He had this plan all of 2023 and as of the date of this hearing, was still covered (Testimony of Appellant).

7. In 2022, Appellant did not have health insurance which met the Commonwealth's standards from January through August. He has been assessed a tax credit penalty for five months, January through May. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

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

9. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$106,281 could afford to pay \$708 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex 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).

10. 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).

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

12. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

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

14. The appellant had the following monthly expenses for basic necessities in 2022: rent- \$900; telephone, internet, electricity and heat-\$400; food, household expenses, and personal care items-\$520; clothing-\$50; gas-\$170; car insurance-\$60; car repairs-\$125; debt payments-\$825; eyeglasses-\$60; dental care-\$25; health insurance-\$100 (January through August) (Testimony of Appellant).

15. Appellant's employer now offers health insurance which meets the minimum creditable coverage standards. As soon as the compliant coverage was offered, Appellant enrolled in the plan. As of the date of this hearing, Appellant is still enrolled (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. 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.

Appellant had health insurance from January through August, but the coverage did not meet the Commonwealth's minimum creditable coverage standards. In September, he obtained coverage which met the Commonwealth's standards. Since Appellant is entitled to a three-month grace period prior to obtaining this coverage, Appellant has been assessed a penalty for five months, January through May. The appellant has appealed the assessment. See Exhibits 1, 2.

Appellant was an independent contractor for a company from January through August, 2022; Appellant not offered health insurance through his job. Appellant wanted to have coverage, went online, and purchased a plan which he was told met Massachusetts standards. Appellant thought he was obtaining insurance through the Connector. Actually, he was purchasing a plan underwritten by Alfac. It did not substantially meet the Commonwealth's standards as set out in 956 CMR 5.03. He was able to have a physical, but no other services were covered by the plan. Appellant did not realize his coverage was not compliant until he found out that the plan did not cover basic medical care, such as blood work. Appellant paid \$100 a month for the plan. See the testimony of the appellant which I find to be credible. Appellant's penalty cannot be waived pursuant to 956 CMR 6.08(2)(d).

To determine if the penalty should be waived in whole or in part on other grounds, 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, or if the penalty should be waived for some other reason.

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$106,281 could afford to pay \$708 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex 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, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$106,281, 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 was not offered health insurance through employment from January through August because he was an independent contractor. The appellant then started to work full-time and was offered health insurance which met the Commonwealth's standards. See the testimony of the appellant which I find to be credible, and Exhibit 2.

Since the appellant could have obtained affordable health insurance through the Connector, 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 did not have a financial hardship as defined in 956 CMR 6.08(a, b, d and e). 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. He did not receive any shut-off notices for basic utilities in 2022, and he did not fall more than thirty days behind in his rent. During the months for which he has been assessed a penalty, Appellant earned about \$7,000 gross a month. His basic expenses came to about \$3,200 a month. The cost of purchasing Connector coverage (about \$300 a month: See Table 4 of Schedule HC 2022) would not have caused the appellant 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 wanted to have coverage. He thought he was obtaining coverage through the Connector. He paid \$100 a month for a plan which he thought met the Commonwealth's standards. It was only when he went for a doctor's appointment that he discovered that his plan did not cover basic procedures. As soon as his employment situation changed and he was offered health insurance through work, he dropped the plan he had and enrolled in his employer's plan which did meet minimum creditable coverage standards. Appellant was not someone who did not see the importance of health insurance or who thought he could not afford it. He has had coverage which meets Massachusetts standards since September, 2022. 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:   5   Number of Months Assessed:   0  

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

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

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

Cc: Connector Appeals Unit

Hearing Officer



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221242

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

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

**Hearing Date:** January 22, 2024

**Decision Date:** 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 January 22, 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 12, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated December 7, 2023 for January 22, 2024 hearing

Exhibit 4: Appellant's lease for Massachusetts residence date April 1, 2022

Exhibit 5: Notice to Quit, Termination of Tenancy dated August 17, 2022

### **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 30 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in New Hampshire until April 1, 2022 when Appellant moved to Massachusetts. He resided in Essex County for the rest of the year (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$36,015 in 2022 (Testimony of Appellant, Exhibit 2).
4. Though the appellant lived out of state for part of the year, he worked in Massachusetts all of 2022 for the same employer (Testimony of Appellant).
5. Appellant worked for a start-up. The employer said he was going to get health insurance for the employees, but he never did. (Exhibits 1, 2, Testimony of Appellant).

6. Appellant changed jobs in May, 2023 and obtained health insurance which met the Commonwealth's minimum creditable coverage standards. As of the date of this hearing, Appellant still had that coverage (Testimony of Appellant).
7. Appellant was uninsured all of 2022. He has been assessed a penalty for six months, July through December (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$36,015 could afford to pay \$150 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Essex County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
11. The appellant had the following monthly expenses for basic necessities in 2022 after he moved to Massachusetts: rent including heat and electricity-\$900 (from April through August); internet and telephone-\$140; food, household products and personal care items-\$1,000; clothing-\$100; car insurance-\$115; gas-\$800; car repairs-\$40; car payments-\$310 credit card debt-\$200. Appellant also had moving expenses (Testimony of Appellant).
12. Appellant and his roommates were evicted from their apartment at the end of August, 2022. After he was evicted, he moved in with his girlfriend. He paid no rent, but all of his other expenses remained the same (Exhibits 4 and 5; Testimony of Appellant).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2022 (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 after the appellant moved to the Commonwealth at the beginning of April, 2022. Appellant has been assessed a penalty for July through December only since the appellant is entitled to a three-month grace period after moving to Massachusetts. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws, Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$36,015 could afford to pay \$150 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Essex County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4 Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$36,015, 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 in 2022. He worked for a start-up and was promised health insurance. The employer never offered the coverage. See also the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through ConnectorCare, 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 was evicted from his apartment in Massachusetts in August, 2022. See Exhibits 4 and 5. Pursuant to 956 CMR 6.08(1)(a), eviction constitutes an economic hardship, and insurance is, therefore, not affordable for the evictee. Based upon his eviction, Appellant's penalty is waived.

In addition, Appellant's income came to about \$3,000 a month. His expenses in July and August came to over \$3,600. From September to December, his expenses were less, but close to \$3,000. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized, I determine that pursuant to 956 CMR 6.08(1)(e), the appellant could not afford to purchase health insurance which met the Commonwealth's minimum creditable coverage standards in 2022. The cost of purchasing coverage would have caused the appellant a serious deprivation of basic necessities.

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:   6   Number of Months Assessed:   0  

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221385

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

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

**Hearing Date:** February 16, 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 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 24, 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

Exhibit 4: Letter to Appellant from health insurance provider dated April 11, 2023 with list of monthly payments

### **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 27 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 \$29,529 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same full-time job all year. Appellant was a server in a restaurant. He was paid an hourly wage and tips. Several months were "slow" at the restaurant; Appellant earned less during those months (Testimony of Appellant).
5. Appellant was not offered health insurance through employment. In September, 2021, Appellant purchased health insurance online from a company named "Evolve." Appellant was told that the insurance met the Commonwealth's minimum creditable coverage standards. Appellant paid an "enrollment" fee of \$99.95 and then a monthly premium of \$197.95. He had this insurance all of 2022 and part of 2023 (Testimony of Appellant; Exhibit 4).

6. Appellant discovered that the insurance he had purchased did not meet Massachusetts' standards when he had a doctor's appointment in March, 2023. As soon as he learned that his insurance was inadequate, he purchased insurance which did meet the standards, effective April 1, 2023 (Testimony of Appellant; Exhibit 4).
7. Appellant has been assessed a penalty for all of 2022. The appellant has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$29,529 could afford to pay \$103 per month for health insurance. According to Table 4, Appellant, 27 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 unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2022: rent and heat-\$960; electricity-on average \$50; telephone and internet-\$150; food, household items, and personal care items-\$530; clothing-\$40; car payments-\$150; car insurance-\$150; gas-\$250 (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 \$29,529 could afford to pay \$103 per month for health insurance. According to Table 4, Appellant, 27 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 unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4; and Exhibit 2. Appellant purchased insurance on the individual market. Not only was it unaffordable, costing nearly \$200 a month, but it also did not meet the Commonwealth's minimum creditable coverage standards. See the testimony of the appellant which I find to be credible and Exhibit 4.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$29,529, 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 had the following expenses for basic necessities in 2022: rent and heat-\$960; electricity-on average \$50; telephone and internet-\$150; food, household items, and personal care items-\$530; clothing-\$40; car payments-\$150; car insurance-\$150; gas-\$250. Appellant also paid \$197 for a health insurance plan which turned out to be a scam. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$29,529, or about \$2,400 a month before deductions. Appellant's expenses for basic necessities came to about \$2,300, not including the premium Appellant paid for health insurance which did not meet the Commonwealth's standards. See Exhibits 2 and 4; and the testimony of the appellant which I find credible. Appellant had no disposable income or ran a deficit each month.

Based upon these facts, 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.

I also note that Appellant tried to obtain health insurance. He wanted to have coverage. He paid almost \$200 a month in 2022 for what he had been led to believe was coverage which met Massachusetts standards. In March, 2023, Appellant learned that his coverage was inadequate; he purchased compliant coverage as of April 1, 2023. See Exhibit 4

Based on the facts and determination 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: PA221325

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

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

**Hearing Date:** February 9, 2024

**Decision Date:** 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 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 2022 signed and dated by Appellant on May 18, 2024

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 individual with no dependents claimed, was 37 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$61,170 in 2022 (Testimony of Appellant, Exhibit 2).
4. The appellant had the same job all year. He received a base salary and commissions. His income varied from week to week. Appellant was not offered health insurance through work (Testimony of Appellant).
5. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from January through March. His coverage for terminated for non-payment (Testimony of Appellant, Exhibit 2).
6. After the appellant lost his health insurance, Appellant went online to find new coverage. He found what he thought was legitimate coverage through a company in Texas sometime during the summer. He paid \$289 a month for the coverage. It was only when he went to his doctor's office that he discovered the plan was a scam. He tried calling the company, but never got a response. Appellant stopped making the monthly payments (Testimony of Appellant).

7. Appellant remained uninsured until he got married in September, 2023 when he obtained coverage. As of the date of this hearing, Appellant was still insured with a plan that met the Commonwealth's standards (Testimony of Appellant).

8. Appellant has been assessed a penalty for six months, July through December, 2022 (Testimony of Appellant, Exhibit 2).

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

10. According to Table 3 of Schedule HC for 2022, the appellant, a single individual with no dependents claimed with an adjusted gross income of \$61,170, could afford to pay \$407 per month for health insurance. According to Table 4, Appellant, 37 years old and living in Norfolk County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

8. 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).

9. 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 household or personal damage in 2022 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).

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

14. The appellant had the following monthly expenses for basic necessities in 2022: rent including heat-\$1,550; electricity-\$80; telephone, internet-\$200; food, household expenses, and personal care items-\$1,525; clothing and laundry-\$200; gas-\$325; car insurance-\$100; car repairs-\$100; student loan payments-\$250; payments to Internal Revenue Service-\$100 (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 "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority, and so long as it is available and meets the Commonwealth's minimum creditable coverage standards. 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 had health insurance which met the Commonwealth's standards from January through March in 2022. He has been assessed a penalty for six months, July through December since Appellant was entitled to a three-month grace-period without penalty after losing his insurance. Appellant has appealed the assessment. See Exhibits 1 and 2.

After losing his health insurance because of non-payment, Appellant tried to find what he considered affordable coverage sometime during the summer. Appellant looked online and enrolled in a plan which he thought was legitimate. Appellant paid \$289 a month for the coverage. It was only when he went to see his doctor that he discovered that the plan was a scam. The doctor would not accept the insurance and when Appellant called the company, no one answered his calls. Appellant eventually stopped paying the premium. See the testimony of the appellant which I find to be credible.

Since the plan the appellant had during the latter part of 2022 turned out to be a scam, providing no coverage even for a visit to his doctor, we need to determine if the appellant's penalty should be waived in whole or in part by considering 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. If affordable insurance which met the Commonwealth's standards was available, we must determine if such insurance was, in fact, not affordable for 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 \$61,170 could afford to pay \$407 per month for health insurance. According to Table 4, Appellant, 37 years old and living in Norfolk County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

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. See Table 2 of Schedule HC-2022 and Exhibit 2. Appellant was not a veteran. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

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

The appellant had access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2022 through the individual market. We now need to consider whether the appellant had a financial hardship such that insurance was not affordable for him. See 956 CMR 6.08 (1)(a, b, d, and e).

Appellant had the following monthly expenses for basic necessities in 2022: rent including heat-\$1,550; electricity-\$80; telephone, internet-\$200; food, household expenses, and personal care items-\$1,525; clothing and laundry-\$200; gas-\$325; car insurance-\$100; car repairs-\$100; student loan payments-\$250; payments to Internal Revenue Service-\$100. See the testimony of the appellant which I find to be credible.

Appellant's expenses for basic necessities came to approximately \$4,500. His monthly income before taxes came to approximately \$5,000. Insurance would have cost the appellant about \$300 a month, leaving Appellant about \$200. See Table 4 of Schedule HC for 2022. Though there is no evidence in the record regarding what the appellant paid for state and federal taxes, social security and Medicare deductions, we can assume that these would have

amounted to more than \$200. Appellant would have run a deficit every month. Based upon these facts, I determine that the cost of purchasing insurance would have caused Appellant to suffer a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e), I find that Appellant had a financial hardship which made health insurance unaffordable for him. I also note that at the time of this hearing, the appellant had health insurance which met the Commonwealth's standards. Appellant's penalty is, therefore, waived.

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221326

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

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

**Hearing Date:** February 9, 2024

**Decision Date:** June 13, 2024

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 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 2022 signed and dated by Appellant on May 19, 2024 with letter attached

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 individual with no dependents claimed, was 32 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$38,808 in 2022 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed all year. Appellant worked for an out-of-state company. Appellant was offered health insurance through employment. He was enrolled in a plan that cost \$54 a month. Appellant thought the plan met Massachusetts minimum creditable coverage standards. It was only when he prepared to do his 2022 tax return that he discovered that the plan did not meet the Commonwealth's standards (Testimony of Appellant).
5. Appellant has been assessed a penalty for all of 2022. (Testimony of Appellant, Exhibit 2).
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, a single individual with no dependents claimed with an adjusted gross income of \$38,808, could afford to pay \$240 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Worcester County, could have purchased insurance for \$290 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).

8. 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).

9. Appellant was not a veteran; he was not eligible for Medicare (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 “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority, and so long as it is available and meets the Commonwealth’s minimum creditable coverage standards. 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 had no health insurance in 2022. He has been assessed a penalty for the entire year. Appellant has appealed the assessment. See Exhibits 1 and 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 appellants through employment, through the individual market, or through a government-sponsored program during the months for which Appellants have been assessed a penalty. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable for 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 \$38,808 could afford to pay \$240 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Worcester County, could have purchased insurance for \$290 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.

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. See Table 2 of Schedule HC-2022, and Exhibit 2. Appellant was not a veteran. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

Appellant was offered health insurance through employment, but the coverage offered by Appellant's out-of-state employer did not meet the Commonwealth's minimum creditable coverage standards. See the testimony of the appellant which I find to be credible.

The appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2022. See discussion above. His penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance which meets the state's standards, the individual shall not be assessed a tax penalty.

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: PA22-699

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 17, 2024

**Decision Date:** 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**

Appellant appeared at the hearing, which was held by telephone, on April 17, 2024. The hearing record was left open to allow the Appellant to provide additional information about expenses and about cost of health insurance. 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 (3-13-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (2-24-23) (with letter and documents) (6 pages);
- Exhibit 4: Prior hearing notice (6-21-23) (2 pages);
- Exhibit 5: Vacate dismissal letter (7-24-23) (1 page);
- Exhibit 6: Additional documents submitted by Appellant (5-13-24) (32 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 36 during 2022, from Barnstable County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2022, through the Health Connector for January through March, but did not have it for the remaining months of 2022. (Appellant's testimony, Exhibits 2, 3).
3. Due to a large tax bill to repay tax credits from 2021, and due to increased expenses due to



an injury of their partner, Appellant did not believe they could afford the continued premiums. (Testimony, Exhibit 3).

3. Appellant's Federal Adjusted Gross Income for 2022 was \$75,791.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing, taxes, transportation, and other necessities used a significant amount of income. Appellant's monthly expenses totaled \$3,600.00, or \$43,200.00 per year.
5. Appellant again enrolled in insurance as of 2023. (Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 for coverage. According to Table 3, Appellant was deemed to afford \$505.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, 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 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

63-day gap in coverage to be three months. <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 a financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for January through March 2022, but did not have health insurance for the remaining months of 2022. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$75,791.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$505.00 per month; according to Table 4, Appellant, who was 36 years old in 2022, from Barnstable County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$298.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Due to an injury of Appellant's partner that prevented the partner from contributing to household expenses, and due to significant tax and car repair issues, Appellant's expenses for 2022 used most 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 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: 6            Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**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 23-169

**Appeal Decision** Appeal Allowed

**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 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 May 17, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 20, 2024
- Exhibit 4: Written Statement of Appeal dated March 20, 2024

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Suffolk County, Massachusetts.
2. The appellant moved to Massachusetts from Connecticut, where he had insurance and had work as a contractor. Appellant became a full-time employee in June of 2023 and had insurance for one month. Appellant was then laid off from his job as a lab technician and had no insurance. Appellant tried to obtain health insurance from the State, but they could not verify his identity. During his contract work, health insurance through the agency was \$500.00 per month. In December when the Appellant obtained a full-time job, he obtained insurance.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,772.00, consisting of rent \$735.00, heat and electricity \$120.00, cell phone \$13.00, internet and cable \$50.00, car payment \$538.00, car insurance \$150.00, car gas \$100.00, food \$300.00, entertainment \$230.00, toiletries \$50.00, student loan \$112.00, train pass \$90.00, subscriptions \$35.00, haircut \$35.00, YMCA \$31.00, money sent to mother \$83.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 "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, because

Appellant's income of \$55,155.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Suffolk County for a 27 year old single person was \$312.00. The tables reflect that Appellant could afford \$367.70 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 moved to Massachusetts from Connecticut, where he had insurance and had work as a contractor. Appellant became a full-time employee in June of 2023 and had insurance for one month. Appellant was then laid off from his job as a lab technician and had no insurance. Appellant tried to obtain health insurance from the State, but they could not verify his identity. During his contract work, health insurance through the agency was \$500.00 per month. In December when the Appellant obtained a full-time job, he obtained insurance.

The Appellant did submit a Statement of Grounds for Appeal-2023 "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. 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 \$55,155.00 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 \$367.70 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:   4        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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 23-172

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** June 13, 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**

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 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 May 17, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 14, 2024

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant works in the hotel industry. Appellant assumed the care of his mother, grandfather, grandmother and brother in 2023. Appellant had notice of shut-off of both gas and electricity in 2023.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$3,994.00, consisting of rent \$1,800.00, heat and light \$600.00, internet and cable \$60.00, cell phone \$350.00, credit card \$150.00, car insurance \$134.00, car gas \$350.00, food \$350.00, toiletries \$200.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 " During 2023, you received a shut-off notice; were shut-off; or reused delivery of essential utilities. And 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". I will hear his appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 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 \$49,258.00 was less than \$83,250.00. The monthly premium for health insurance available on the private market in Worcester County for a 29 year old single person with three dependents was 806.00. The tables reflect that Appellant could afford \$201.13 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the hotel industry. Appellant assumed the care of his mother, grandfather, grandmother and brother in 2023. Appellant had notice of shut-off of both gas and electricity in 2023.

The Appellant did submit a Statement of Grounds for Appeal-2023 “ During 2023, you received a shut-off notice; were shut-off; or reused delivery of essential utilities. And 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”. I will hear his appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$41,625.00 for a single person with three dependents. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 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 \$29,258.00 in 2023, and Appellant’s filing status was single with three dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$201.63 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 \$806.00 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:   3        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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 23-174

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** June 13, 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**

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 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 May 23, 2024
- Exhibit 4: Written Statement of Appeal undated

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-two years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works as a dishwasher. Appellant has had mental health issues. Appellant because of his mental health issues had difficulty filling out the Health Connector forms. He formerly worked as a manager for a health club. He had a head injury.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$1,780.00, consisting of rent \$650.00, cell phone \$60.00, car payment \$350.00, car insurance \$110.00, car gas \$160.00, food \$280.00, clothing \$240.00, toiletries \$80.00, loan \$100.00, auto expenses \$250.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 " 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 \$27,921.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Essex County for a 51 year old single person was \$475.00. The tables reflect that Appellant could afford \$95.39 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 dishwasher. Appellant has had mental health issues. Appellant because of his mental health issues had difficulty filling out the Health Connector forms. He formerly worked as a manager for a health club. He had a head injury.

The Appellant did submit a Statement of Grounds for Appeal-2023 “ During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 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 \$27,921.00 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 \$95.39 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 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:   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: PA23-73

**Appeal Decision:** The tax penalty is overturned.

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

**Hearing Date:** June 11, 2024

**Decision Date:** June 18, 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 11, 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 (7 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 11, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 22-1154 (5 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 64 in August 2023. (Exhibit 1).
3. The Appellant resided in Middlesex County in 2023. (Exhibit 1) and Appellant Testimony.

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$21,122. (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 checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. 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 \$21,122 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 \$21,122, could have afforded to pay \$49 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 \$20,386 and \$27,180 could have spent 2.8% of their earnings on health insurance; 2.8% of \$21,122 is \$591, and one-twelfth of \$591 is \$49.
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 63 living in Middlesex County in January 2023, cost \$490 per month.
11. The Appellant testified that they worked as a self-employed real estate broker throughout 2023 and that their only income that year came from interest on investments.
12. The Appellant testified that they had two homes in 2023, one in Middlesex County and the other in Barnstable County.
13. The Appellant testified that they estimated they had the following annual living expenses in 2023: \$4000 per year for total real estate taxes for both homes; \$1500 per year for homeowners insurance for the home in Middlesex County; \$3000 phone and Internet expenses for both homes, based on an estimate of \$200 to \$300 (or \$250) per month; \$4500 total for utility

expenses for both homes, based on an estimate of \$4000-5000 per year; \$4500 for gas, using an estimate of \$4000-5000 per year; \$3500 for car insurance, using an estimate of \$3000-4000 per year for several cars; \$10,000 per year for food; \$2000 per year for clothing; and \$1000 per year for household supplies and toiletries. These expenses total \$34,000 per year. If these expenses are reduced to account for only one home, they total \$27,750 (real estate taxes are halved to \$2000; phone and Internet expenses are halved to \$1500; utility expenses are halved to \$2250; and household supplies and toiletries are halved to \$500).

14. The Appellant testified that they own several old cars that frequently need repairs and that they personally repair the cars.
15. The Appellant testified that they were unaware they might have been eligible for subsidized health insurance in 2023 and that had they known about the possibility of subsidized health insurance, they might have investigated it.
16. The Appellant testified that they intend to enroll in Medicare when they turn 65 in August 2023.
17. The Appellant appealed a 12-month penalty for failing to have health insurance in 2022, and their appeal was denied. (Exhibit 4). The decision on the Appellant's 2022 appeal, Final Appeal Decision PA 22-1154, stated that the Appellant's adjusted gross income in 2022 was \$132,272. (Exhibit 4).
18. The Appellant testified that their income in 2022 was a fluke and that they did not earn income from their business in 2023. The Appellant stated that the income they earned in 2022 had to last for several years.
19. The Appellant testified that they believe Massachusetts' individual mandate is unconstitutional.

## **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 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 \$49 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 \$490 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 because the Appellant credibly testified that they were self-employed in 2023. Finding of Fact No. 11.

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. 8. I find, however, that this government-subsidized insurance was not actually affordable to the Appellant because their basic living expenses exceeded their AGI. The Appellant testified that they had two homes in 2023, but I find that only the expenses for one home should be counted for purposes of their basic living expenses, given that it is not essential for an individual to have two homes. Looking only at the expenses for one of the Appellant's two homes, I find that the Appellant credibly testified that their basic living expenses in 2023 totaled \$27,750 and that these expenses seem reasonable. Finding of Fact No. 13. Given that the Appellant's \$27,750 in living expenses exceeded their AGI of \$21,122, I find that the Appellant did not have sufficient after-tax income to purchase health insurance, even on a subsidized basis.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-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: \_\_\_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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-87

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 14, 2024

**Decision Date:** May 31, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 14, 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 42-years-old, is single and has adult children. In 2023, she had minimum creditable coverage (MCC) health insurance for the month of December. She resided in Essex County in 2023. (Testimony, Ex. 1)
2. Prior to 2023, the appellant had health insurance through the Health Connector for part of 2022. She was unable to continue paying her premium due to financial issues and the insurance was terminated. She was not subject to a penalty for failure to obtain insurance for that year or any prior year. (Testimony)
3. The appellant was employed on a part-time basis in 2023 and was not eligible for health insurance due to her part-time status. She investigated insurance options through the Health Connector, but missed the open enrollment period and remained unenrolled until December. (Testimony, Ex. 1)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant has been enrolled in health insurance through the Health Connector since January 1, 2024. (Testimony)
5. The appellant lived with her mother in 2023 and paid her \$600.00/month to cover rent, heat and electricity. She encountered financial difficulties during the year and missed several months of payments on her personal loan and credit card debt. (Testimony)
6. The appellant reported an adjusted gross income of \$20,530.00 on her 2023 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2023, the appellant had regular monthly expenses of approximately \$1820.00 for rent which included heat and electricity (\$600.00), cable and internet service (\$130.00), cell phone (\$50.00), car insurance (\$80.00), gasoline (\$160.00), and food (\$800.00). In addition, she paid a personal loan in the amount of \$253.00/month and paid credit card debt in the amount of \$260.00/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 had health insurance for the month of December, she 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 she had health insurance through the Health Connector for part of 2022, but ran into financial difficulties and was unable to continue for the full year. She testified that she investigated insurance through the Connector for 2023, but missed the open enrollment period, and remained unenrolled until December. She testified that she was not subject to a penalty for failure to obtain insurance for that year or any prior year. Finally, she testified that she has been enrolled in insurance through the Connector since January, 2024.

The evidence provided by the appellant established that her income for 2023, \$20,530.00, was less 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 filing separately with no dependents with a federal adjusted gross income between \$20,386.00 and \$27,180.00 is deemed to be able to afford a monthly premium of \$47.90 (2.80% of \$20,530.00/12). Table 4 of the Premium Schedule indicates that a 41-year-old individual (the age of the appellant in 2023) in Essex 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 \$47.90 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 \$2333.00, including her personal loan and credit card debt. Those expenses were more than her regular monthly pre-tax income of approximately \$1710.00, thereby making a monthly premium of \$47.90 for subsidized health insurance unmanageable. The appellant's testimony regarding her inability to meet some of her monthly expenses underscores the level of financial difficulty she encountered during the year. 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:   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: PA23-90

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 14, 2024

**Decision Date:** June 9, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 14, 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

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

- Ex. 4—Summary of Benefits and Coverage under appellant’s 2023 health insurance plan

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 57-years-old, is single, and has three adult children, one of whom is covered under his 2023 health insurance. (Testimony, Exs. 1,4)
2. The appellant has worked for the same employer for approximately seventeen years, during which time he has always had employer health insurance, including in 2023. His employer is a New York-based company and he works for a Massachusetts division. (Testimony, Ex. 1)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. Until three years ago, the appellant's tax returns were prepared by an accountant. He started to use Turbo Tax thereafter because his returns were relatively simple. (Testimony)
4. For many years up until 2023, the appellant received an IRS Form 1095-C from his employer as proof of health insurance coverage, and it was accepted with his Schedule HC without issue. When he prepared his 2023 tax returns using Turbo Tax, he was unable to indicate on his Schedule HC that he had health insurance for any part of the year, even though his 2023 Form 1095-C showed that he had full-year coverage. (Testimony, Exs. 1,2)
5. The appellant's health insurance plan offered the following benefits in 2023: primary care office visits with a \$25.00 co-pay; specialist office visits with a \$50.00 co-pay; emergency room care visits with a \$350.00 co-pay; urgent care visits with a \$25.00 co-pay; hospital inpatient services-10% coinsurance; mental health services, behavioral health services and substance abuse services with a \$25.00 co-pay per visit; diagnostic testing and imaging coverage; pregnancy and childbirth coverage; and prescription drug coverage. The plan had an overall deductible for in-network services of \$1500.00 for an individual and \$4000.00 for a family, and an in-network out-of-pocket limit of \$3000.00 for an individual and \$6000.00 for a family. (Ex.4)
6. Massachusetts MCC-compliant plans must provide a broad range of medical services. There must be some level of coverage for the following services: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. There can be no limit on prescriptions drug benefits, the total amount paid for a particular illness or for benefits paid in a single year, or certain services such as a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges. There are also requirements regarding what a plan can charge for deductibles and in-network services. See 956 CMR 5.03. [Massachusetts Individual Mandate – Massachusetts Health Connector \(betterhealthconnector.com\)](https://www.betterhealthconnector.com)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2023, but did not specify a particular ground for the appeal.

The appellant had health insurance for all of 2023 which did not comply with Massachusetts minimum creditable coverage (MCC) standards. 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. As a result, gaps of three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he has worked for the same employer for approximately seventeen years during which time he has had employer health insurance, including in 2023. He testified that he receives an IRS

Form 1095-C every year which indicates that he has full-year coverage under his employer’s plan, and that up until 2023, it has always been accepted as proof of coverage on his Schedule HC. Finally, he testified that he used Turbo Tax to prepare his 2023 tax returns and that on his 2023 Schedule HC, he was unable to indicate that he had full-year insurance.

The Form 1095-C in question is used to report certain information to the Internal Revenue Service and to taxpayers about individuals who are covered by minimum essential coverage (MEC). On its own, the form does not establish that the appellant was enrolled in MCC insurance, the standard required by the state for all residents who obtain health insurance. Insurance that meets MEC standards under the Affordable Care Act does not necessarily meet MCC standards. Since the employer is based in New York, it is unlikely that the insurance met all of Massachusetts standards. Nonetheless, an analysis of the employer’s plan demonstrates that it offered comprehensive coverage and covered a “broad range of medical benefits” as specified in the Massachusetts regulations. Furthermore, it does not appear to deviate from MCC standards in any significant way. Finally, it is noted that the appellant was unaware that the plan did not comply with MCC requirements until 2024 when he prepared his 2023 tax returns. Given his lack of knowledge as well as the fact that he did not demonstrate an intent to evade the mandate by not obtaining MCC insurance, the penalty will be waived for the period in question.

Based on the totality of the evidence, it is concluded that the appellant is not subject to the penalty for any part of 2023 and his request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2023, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA23-91

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 14, 2024

**Decision Date:** June 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**

The appellant appeared at the hearing which was held by telephone on May 14, 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 31-years-old, is married, and has no children. (Testimony, Ex. 2)
2. The appellant resided in the state of Texas from January 1, 2023, until August 24, 2023, when she moved to Massachusetts. During her residence in Texas, she was a student and had student health insurance. (Testimony, Ex. 2)
3. The appellant began a job in Massachusetts in September, 2023, for an employer that offered health insurance. She did not enroll because she had been enrolled in student health insurance while living in Texas and assumed that she would be automatically enrolled in employer insurance without having to affirmatively make an election to do so. (Testimony)
4. The appellant did not need any medical care in Massachusetts after she began working and did not have occasion to use health insurance for the rest of 2023. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. At the beginning of 2024, the appellant asked her employer about a reimbursement program for health club dues and discovered that she was not enrolled in health insurance at that time, nor had she been since the commencement of her employment. She was able to enroll in employer health insurance for 2024, but had no recourse for the period of 2023 when she did not have insurance. (Testimony, Ex. 1)

## **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 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she accidentally waived enrollment in employer health insurance when she began to work and did not discover the oversight until the beginning of 2024.

The appellant resided in the state of Texas from January 1, 2023, until she moved to Massachusetts on August 23, 2023, and indicated on her Schedule HC that she was a part-year resident of Massachusetts. The instructions on the 2023 Schedule HC (page HC-2) set forth the following relevant information for part-year residents: “If you moved into Massachusetts during 2023, the mandate to obtain and maintain health insurance applies to you beginning on the first day of the third month following the month you became a resident of [the state].”

Accordingly, the mandate applied to the appellant beginning on November 1, 2023, and the maximum number of months for which she could be subject to a penalty is two—i.e., November and December.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 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. As a result, gaps of three months are not subject to penalty. Since the appellant did not have insurance for the months of November and December, she was assessed and is appealing a penalty of two months.

The appellant testified credibly that she moved to Massachusetts from Texas where she had been attending school and had been enrolled in student health insurance. She testified that her employer offered health insurance, but she did not enroll because she assumed that she would be automatically enrolled based on her prior student insurance. She testified that at the beginning of 2024, she discovered she was not enrolled in employer health insurance nor had she been in 2023. Finally, she testified that she was able to enroll in employer insurance for 2024.

Although the appellant’s assumption with regard to automatic enrollment in her employer’s health insurance strains credulity in some respects, it does not appear that she was intentionally avoiding enrolling in health insurance when she waived her employer’s insurance. Au contraire, upon discovering her oversight, she enrolled in insurance for 2024 thereby demonstrating that the mandate to obtain insurance was not lost on her.

Accordingly, 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 she 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:   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: PA23-105

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 20, 2024

**Decision Date:** June 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 May 20, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

The record was held open 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 Form

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 46-years-old, is single, and has one minor child. (Testimony, Ex. 2)
2. The appellant has been working for a Massachusetts-based company for approximately seven years during which time he has been residing out-of-state. (Testimony)
3. The appellant lived in New Jersey from January 1, 2023, until he moved to Massachusetts at the end of June due to the death of his father. (Testimony, Ex. 1)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.



4. The appellant's employer did not offer health insurance to the appellant in 2023. (Ex. 4)
5. When the appellant began to reside in Massachusetts in July, 2023, he was confronted with a host of issues related to his father's death including making funeral arrangements and assuming the cost of the mortgage and other expenses in his condominium. (Testimony)
6. At some point after the appellant moved to Massachusetts, he began to investigate health insurance options. He has been enrolled in insurance through the Health Connector since May, 2024. (Testimony)
7. The appellant did not indicate on his 2023 Schedule HC that he did not reside in Massachusetts from January through June. (Ex. 2)
8. After moving to Massachusetts, the appellant moved into his father's condominium and assumed all the costs including the mortgage, real estate taxes, condominium fees, and parking. He also covered the funeral expenses of approximately \$8000.00 although he did not make any payments towards that cost in 2023, with the exception of flowers for the funeral and a small reception in the amount of approximately \$700.00. (Testimony)
9. The appellant reported an adjusted gross income of \$86,436.00 on his 2023 federal tax return, and reported that he was head of household with one dependent. (Ex. 2)
10. In 2023, the appellant had regular monthly expenses of approximately \$3133.00 for his father's mortgage (\$1000.00), condominium fees which included heat and electricity (\$350.00), real estate taxes (\$133.00), internet service (\$80.00), parking (\$150.00), cell phone (\$90.00), automobile insurance (\$150.00), gasoline (\$480.00) and food (\$700.00). In addition, he paid approximately \$100.00/month towards 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 him in 2023 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities and 2) he incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the death of a family member or partner with primary responsibility for child care where household expenses were shared.

The appellant did not have health insurance for any part of 2023, and he did not indicate on his Schedule HC that he did not reside in Massachusetts until the end of June, 2023. 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. As a result, gaps of three months are not subject to penalty. Based on the information in his Schedule HC indicating that he was a full-year resident of the state, the appellant was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he has worked for a Massachusetts-based company for several years, but lived out of state until he moved to Massachusetts from New Jersey at the end of June due to the death of his father. He testified that he did not have access to employer health insurance and started to investigate health insurance options after he began to reside in the state. He testified that upon his arrival in Massachusetts, he was confronted with numerous matters associated with his father's death and assumed responsibility for his condominium mortgage and other related expenses. He testified that he covered the funeral expenses in the amount of \$8000.00, but only made payments of approximately \$700.00 in 2023. Finally, he testified that he has been enrolled in insurance through the Health Connector since May, 2024.

With respect to the appellant's residence in the state, he testified credibly that he began to reside in Massachusetts at the end of June, 2023. The instructions on the 2023 Schedule HC (page HC-2) set forth the following relevant information for part-year residents: "If you moved into Massachusetts during 2023, the mandate to obtain and maintain health insurance applies to you beginning on the first day of the third month following the month you became a resident of [the state]." Accordingly, the mandate applied to the appellant beginning on September 1, 2023, and the maximum number of months for which he could be subject to a penalty is four—i.e., September through December.

Although the appellant filed his appeal on two grounds, he did not argue or present any evidence in connection with the second ground—that he incurred a sudden, unexpected increase in expenses resulting directly from the consequences of the death of a family member with primary responsibility for child care where household expenses were shared. Accordingly, his appeal will only be analyzed on the basis of the first ground—that the expense of purchasing insurance would have caused a serious deprivation of food, shelter, clothing and other necessities.

The evidence provided by the appellant established that his income for 2023, \$86,436.00, was more 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 greater than \$73,241.00 is deemed to be able to afford a monthly premium of \$576.24 (8.00% of \$86,436.00/12). Table 4 of the Premium Schedule indicates that a 45-year-old individual (the age of the appellant in 2023) in Middlesex County (where the appellant resided in 2023) with a family could have purchased private health insurance for \$1000.00 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.

Based on the totality of the evidence, it is concluded that for the months of September through December when the appellant resided in Massachusetts and did not have health insurance 1) he would not have been eligible for subsidized insurance because his income exceeded 300% of the federal poverty level ; 2) health insurance was not available through employment; and 3) he could not have purchased affordable insurance on the private market. Accordingly, his request for a waiver from the penalty is **granted** for the months during which he was subject to the mandate. 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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-107

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 20, 2024

**Decision Date:** May 31, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 20, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—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 38-years-old, is single and has one minor child. In 2023, he had minimum creditable coverage (MCC) health insurance for the months of January through March and September through December. (Testimony, Ex. 2)
2. The appellant was on medical leave from his employment for the months of January through March, 2023, during which time he had employer health insurance. His leave expired at the end of March and his insurance ended because he did not return to his job. (Testimony, Ex. 2)
3. The appellant began a new job in April, 2023, on a part-time basis. He became a full-time employee in June and had a 90-day waiting period for employer health insurance. In September, 2023, he enrolled in insurance for the remainder of the year. (Testimony, Ex. 2)
4. The appellant has been enrolled in health insurance since January 1, 2024. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant reported an adjusted gross income of \$86,320.00 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 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 had health insurance for the months of January through March and September through December, he 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 he had employer health insurance from January through March, 2023, while he was on medical leave from his job. He testified that he did not return to work and his insurance ended. He testified that he began a new position in April on a part-time basis and became a full-time employee in June. Finally, he testified that he had a 90-day waiting period for employer insurance and enrolled in September for the rest of the year.

The appellant did not have health insurance for the months of April through August and is only subject to a penalty of two months based on the application of the aforementioned three-month window. Since he was in a 90-day waiting period for employer health insurance from June through August, and ultimately enrolled, that block of time should not be considered in the calculation of the penalty. Accordingly, he is not subject to a penalty for any part of the time during which he was uninsured.

Given this conclusion, it is not necessary to consider the hardship grounds alleged by the appellant as grounds for his appeal.

Based on the foregoing, the appellant’s request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 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: PA23-111

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 20, 2024

**Decision Date:** June 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 May 20, 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 28-years-old, is single and does not have children. In 2023, she did not have health insurance. She resided in Suffolk County from January 1, 2023, until August 31, 2023. (Testimony, Ex. 1)
2. Prior to 2023, the appellant last had health insurance through her parents in 2021. She was subject to a penalty for the 2022 tax year for not having health insurance. (Testimony)
3. The appellant lived in Massachusetts from January 1st until the end of August, 2023, when she moved to Rhode Island. She was employed on a part-time basis in two different positions and was not eligible for health insurance in either position due to her part-time status. 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. (Testimony, Ex. 1)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant reported an adjusted gross income of \$31,532.00 on her 2023 federal tax return, and reported that she was single with no dependents. (Ex. 2)
5. In 2023, the appellant had regular monthly expenses of approximately \$1395.00 for rent which included heat (\$1000.00), electricity (\$55.00), internet service (\$35.00), cell phone (\$105.00), and food (\$200.00). (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.

The appellant resided in Massachusetts from January 1, 2023, until August 31, 2023, when she moved to Rhode Island, and indicated on her Schedule HC that she was a part-year resident of Massachusetts. The instructions on the 2023 Schedule HC (page HC-2) set forth the following relevant information for part-year residents: “If you moved out of Massachusetts during 2023, the requirement to obtain and maintain health insurance applies to you until the last day of the last full month you were a resident. “Accordingly, the mandate applied to the appellant up until August 31, 2023.

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 did not have insurance from January through August, she was assessed and is appealing a penalty of five months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that she lived in Massachusetts from January through the end of August at which time she moved to Rhode Island. She testified that she held two part-time positions while she resided in the state and was not eligible for health insurance due to her part-time status. Finally, she testified that she investigated her eligibility for insurance through the Health Connector and determined that a monthly premium would have cost approximately \$200.00 which she could not afford.

The evidence provided by the appellant established that her income for 2023, \$31,532.00, was less 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 filing separately with no dependents with a federal adjusted gross income between \$27,181.00 and \$33,975.00 is deemed to be able to afford a monthly premium of \$107.73 (4.10% of



\$31,532.00/12). Table 4 of the Premium Schedule indicates that a 27-year-old individual (the age of the appellant in 2023) in Suffolk County (where the appellant resided in 2023) could have purchased private health insurance for \$312.00 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 \$107.73 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 from January through August, 2023, she incurred basic monthly expenses of approximately \$1395.00. Although those expenses were less than her regular monthly pre-tax income of approximately \$2627.00, the difference of \$1232.00 between income and expenses is inadequate to cover a subsidized insurance premium of \$107.73/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).

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:   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.

If the number of months assessed is zero (0) because 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: PA23-163

**Appeal Decision:** The tax penalty is overturned.

**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 (6 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 12, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 22-1529 (6 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 February 2023. (Exhibit 1).
3. The Appellant resided in Worcester County in 2023. (Exhibit 1) and Appellant Testimony.

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$57,249. (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 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. The Appellant submitted a letter with their Statement of Grounds for Appeal that stated: "During 2023 the cost of living for my family was extremely high. The financial burden for my family was on my shoulders. My fiancé recently had a baby at the end of 2022 and the lack of hours she worked put most of that financial burden on me. She had a difficult pregnancy, and I was the sole provider for my family, I paid rent \$1000, the car payment \$532, as well as most of the other bills as well as food and formula for my family. As sad as it is to say, my health insurance was the least of my priorities. As of March 1, 2024, I got health insurance from my work, because we are in a good spot financially to do so. I did not save documentation of the financial hardship that my family was in. Thank you for your time." (Exhibit 2).
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 \$57,249 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).
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 \$57,249, could have afforded to pay \$381 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 \$57,249 is \$4579, and one-twelfth of \$4579 is \$381.
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 30 living in Worcester County in January 2023, cost \$312 per month.
12. The Appellant testified that they lived with and supported their fiancé and infant son throughout 2023 and that their fiancé claimed their son on her tax returns.

13. The Appellant testified that their financial situation was unstable in 2023, in part because their fiancé was not working full time and because they had credit card bills.
14. The Appellant testified that their fiancé did not work full time in 2023 because of pregnancy-related health complications.
15. The Appellant testified that they worked full time at the same job throughout 2023 and that their employer offered health insurance. The Appellant testified that they believe that it would have cost them approximately \$60 to \$70 per week for an individual insurance plan through their employer and that they believed they could not afford this health insurance because of their living expenses and credit card debt.
16. The Appellant testified that they estimated that they had the following basic monthly expenses in 2023: \$650 for rent (their fiancé paid an additional \$300); \$500 for utilities; \$70 for cable in January through April; \$300 for a car payment (their fiancé paid an additional \$200); \$55 for car insurance (based on an estimate of \$40-50 per month); \$260 for gas (based on an estimate of \$60 per week); \$50 for cellphone; \$1083 for food (based on an estimate of \$250 per week); \$216 for household supplies, including diapers (based on estimate of \$50 per week). These expenses total \$3184.
17. The Appellant testified that they struggled with credit card debt on two credit cards in 2023. The Appellant testified that the balance on one of their credit cards reached nearly \$19,000 and that their monthly payments on this credit card were around \$580-600 in 2023. The Appellant testified that they missed several payments on this credit card and reached an agreement in the past month and a half with this credit card company whereby they agreed to monthly payments of \$335 and to cancel the credit card.
18. The Appellant testified that the balance on the other credit card is around \$5400 and that they paid approximately \$160 to \$200 per month on this credit card in 2023.
19. The Appellant testified that they were promoted at the end of 2023 and enrolled in employer-sponsored health insurance in March 2024.
20. The Appellant testified that some of the expenses charged to their credit cards were for groceries.
21. The Appellant appealed a 12-month penalty for failing to have health insurance in 2022, and their appeal was granted on the grounds that the Appellant suffered a hardship and that if they had purchased health insurance, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 4).

## 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. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant theoretically had access to affordable health insurance on the private market because, according to Table 3 of the Schedule HC, they could have afforded to pay \$381 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 \$312 per month. Findings of Facts Nos. 10 and 11. I also conclude that the Appellant theoretically had access to affordable health insurance through employment because the Appellant credibly testified that they could have obtained health insurance through employment for approximately \$60-70 per week. Finding of Fact No. 15. A health insurance plan that costs \$70 per week costs \$303 per month and would have been affordable to the Appellant according to Table 3 of the Schedule HC. Finding of Fact No. 10.

I find, however, that the Appellant could not actually have afforded to purchase employer-sponsored health insurance or health insurance on the private market because the Appellant suffered a hardship. Although the Appellant filed taxes as a single person with no dependents, the Appellant credibly testified that they had a fiancé and an infant son whom they supported throughout 2023. Finding of Fact No. 12. I find that the expenses associated with the Appellant's support of their fiancé and son, combined with their credit card debt, some of which the Appellant credibly testified was for groceries, rendered health insurance unaffordable to the Appellant, and that if the Appellant had purchased health insurance, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities. Finding of Fact No. 20.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 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:   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: PA23-167

**Appeal Decision:** The tax penalty is overturned.

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

**Hearing Date:** June 12, 2024

**Decision Date:** 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 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 (7 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 12, 2024 (2 pages).
- Exhibit 4: Final Appeal Decision PA 22-785 (7 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 49 in April 2023. (Exhibit 1).
3. The Appellant resided in Bristol County in 2023. (Exhibit 1).



4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$36,334. (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 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 \$36,334 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 \$36,334, could have afforded to pay \$130 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 \$27,466 and \$36,620 could have spent 4.3% of their earnings on health insurance; 4.3% of \$36,334 is \$1562, and one-twelfth of \$1562 is \$130.
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 48 living in Bristol County in January 2023, cost \$409 per month.
11. The Appellant testified that they lost their job in 2021 and have not had a job that has offered health insurance since then.
12. The Appellant testified that since losing their job in 2021, they have worked as a landscaper and are typically laid off from the end of December until the first two weeks of March.
13. The Appellant testified that they receive approximately \$133 per week in unemployment compensation during the months in which they are laid off.
14. The Appellant testified that their work as a landscaper is fairly consistent and that for the most part, they work 40 hours per week during the months in which they are not laid off. The

Appellant testified that they do not work when it rains, however, and that some months they only work 28 hours per week.

15. The Appellant testified that they looked into obtaining health insurance when they lost their job in 2021 and that they were told that it would cost them \$400 per month, which the Appellant testified they could not afford. The Appellant testified that they believed they contacted the Health Connector about health insurance.
16. The Appellant testified that they were assessed a tax penalty in 2022 and that at their hearing on that tax penalty, they were advised to apply for health insurance when open enrollment began.
17. The Appellant testified that, based on advice they received at their 2022 penalty appeal hearing, they applied for health insurance at the end of 2023 and that they have been enrolled in subsidized health insurance since January 2024. The Appellant testified that they pay around \$3 per month for this insurance.
18. The Appellant testified that they estimated they had the following monthly expenses in 2023: \$600 for rent; \$420 for a car payment; \$125 for car insurance; \$86 for gas (based on an estimate of \$20 per week); \$50 for cellphone; \$70 for household supplies; and \$780 for child support (based on \$180 per week).
19. The hearing on the Appellant's 2022 tax penalty was held on October 9, 2023, and the hearing officer overturned the penalty on the grounds that the Appellant experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 4).

## **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 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 \$130 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 \$409 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 because the Appellant credibly testified that their employer did not offer health insurance. Finding of Fact No. 11.

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. 8. I find, however, that the Appellant effectively did not have access to subsidized insurance because they credibly testified that, based on their communications with the Health Connector after being laid off in 2021, they had a genuine belief that health insurance would have cost them \$400 per month, which would not have been affordable to them. Finding of Fact No. 15. Further, the Appellant credibly testified that, based on advice they received at their October 9, 2023 penalty appeal hearing, they applied for and enrolled in subsidized health insurance for 2024. Findings of Fact Nos. 16 and 17. I find that the Appellant's enrollment in subsidized health insurance for 2024 shows that the Appellant was not attempting to shirk the individual mandate in 2023, but rather, that the Appellant did not know that subsidized health insurance was available to them. I note for the Appellant's future reference that qualified individuals may enroll in in a ConnectorCare Plan (e.g., a subsidized plan) outside of the open enrollment period if they are determined newly eligible for a ConnectorCare Plan. See, [Policy NG-5 Mid-Year Life Events or Qualifying Events \(betterhealthconnector.com\)](#)

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-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:   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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221330

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2022 Tax Year Penalty  
**Hearing Date:** February 9, 2024  
**Decision Date:** June 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 appeared at the hearing, which was held by telephone on February 9, 2024. Appellant also represented Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated May 16, 2023
- Exhibit 3: Correspondence from Health Connector dated January 4, 2024
- Exhibit 4: Final Appeal Decision for 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 30 years old and Appellant Spouse was 29 years old in 2022. Appellants filed a Massachusetts 2022 tax return as married filing jointly with no dependents claimed (Exhibit 1).
2. Appellants resided in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellants had an Adjusted gross income of \$129,800 for 2022 (Testimony of Appellant and Exhibit 1).
4. Appellant began a new job in May 2021 and the job included employer sponsored health insurance (Exhibit 4 and Testimony of Appellant).
5. Appellant and Appellant Spouse made many attempts to enroll in the employer sponsored health insurance in 2021 continuing into 2022 (Exhibit 4 and Testimony of Appellant).
6. Appellant and Appellant Spouse were given incomplete information, and the insurance department of Appellant's employer was not responsive and did not provide timely information (Exhibit 4 and Testimony of Appellant).

7. By the time that Appellant’s employer’s insurance department responded to them, Appellants were required to wait until the open enrollment of the employer and the insurance would not be effective until July 2022 (Exhibit 4 and Testimony of Appellant)
7. Appellants were fully insured beginning in July 2022 through December 2022 (Exhibit 1, 2, and Testimony of Appellant).
8. Appellants have each been assessed a penalty for three months for 2022 (Exhibit 1).
13. Appellants filed an appeal on May 16, 2023 (Exhibit 2).

**ANALYSIS AND CONCLUSIONS OF LAW**

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellants have each been assessed a tax penalty for three months. Appellants tried to enroll in the employer sponsored health insurance offered by Appellant’s employer. They were given incomplete information, and the insurance department of Appellant’s employer was not responsive and did not provide timely information. By the time that Appellant’s employer’s insurance department responded to them, Appellants were required to wait until the open enrollment of the employer. Given the circumstances, I hereby waive the penalty for Appellants for 2022. See Exhibit 4 and Testimony of Appellant, which I find to be credible.

**PENALTY ASSESSED**

Number of Months Appealed: 3/3

Number of Months Assessed: 0/0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1416

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2022 Tax Year Penalty  
**Hearing Date:** February 23, 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**

Appellant appeared at the hearing, which was held by telephone, on February 23, 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. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated June 10, 2023
- Exhibit 3: Correspondence from Health Connector, dated January 10, 2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 53 years old in 2022 (Exhibit 1).
2. Appellant lived in Norfolk County Massachusetts in 2022 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2022 of \$73,173 (Exhibit 1).
5. Appellant had worked as an independent contractor in a field related to the real estate industry for the previous twenty-six years (Testimony of Appellant).
6. Due to the Covid-19 pandemic, Appellant's business was very slow in 2020, 2021 and 2022 (Testimony of Appellant).
7. Prior to the pandemic Appellant had twelve to fifteen jobs per day (Testimony of Appellant).
8. During 2020, 2021 and early 2022, Appellant only had three to four jobs per day (Testimony of Appellant).
9. Appellant struggled financially due to the slow business and Appellant struggled to pay for basic expenses (Testimony of Appellant).
10. During 2022, Appellant did not have access to employer sponsored health insurance (Testimony of Appellant).
11. Appellant had had private insurance prior to 2022 but was unable to afford the insurance when business was slow and uncertain (Testimony of Appellant).
12. Appellant obtained health insurance in 2023 (Testimony of Appellant).

13. 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.
14. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents, with an adjusted gross income of \$73,173 could afford to pay \$488 per month for private insurance. According to Table 4, Appellant, who was 53 with no dependents and lived in Norfolk County could have purchased private insurance for a cost of \$422 per month.
15. Private insurance was considered affordable for Appellant in 2022 (Schedule HC for 2022).
16. Appellant, earning more than \$38,640 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).
17. Appellant did not have health insurance during January through December 2022 (Testimony of Appellant and Exhibit 1).
18. Appellant has been assessed a penalty for twelve months for 2022 (Exhibit 1).
19. Appellant filed a Hardship Appeal on June 10, 2023 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship. See 956 CMR 6. Private health insurance was considered affordable for Appellant in 2022, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellant had worked as an independent contractor for twenty-six years prior to 2022. Appellant’s business was severely impacted by the Covid 19 pandemic, beginning in 2020 and continuing into 2022. Due to the lack of business, Appellant struggled to pay for basic necessities and Appellant was unable to pay for private health insurance. I find that Appellant suffered a hardship and health insurance was not affordable. See Schedule HC for 2022, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0



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

OR

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

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

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