

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-735

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 2, 2021

**Decision Date:** November 12, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 2, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 15, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 9, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-one years old and is married. He lives in Middlesex County, Massachusetts. Appellant works as a manager in a dental firm.
2. Appellant was laid off from his job in 2020 due to Covid 19. Appellant had health insurance for part of the year 2020 but the health insurance ran out and Appellant could not afford to purchase health insurance for the rest of the year.
3. Appellants do have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$7,910.00, consisting of mortgage \$2,910.00, heat & light \$350.00, internet & cable \$200.00, cell phone \$200.00, car payments \$490.00 car insurance \$150.00. car gas \$100.00, food \$1,000.00, credit card \$750.000, clothing \$250.00, entertainment \$300.00, toiletries \$50.00, children school loans \$500.00, water bill \$50.00, second mortgage \$50.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear their appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$127,448.00 was more than \$50,730.00. The monthly premium for health insurance available on the private market in Middlesex County for a 60 year old married person was \$864.00. The tables reflect that Appellant could afford \$849.65 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant was laid off from his job in 2020 due to Covid 19. Appellant had health insurance for part of the year 2020 but the health insurance ran out and Appellant could not afford to purchase health insurance for the rest of the year.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$25,365.00 for a married person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$127,448.00 in 2020, and Appellant’s filing status was married . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$849.65 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$864.00 monthly for coverage. *Id.* at Table 4.

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

Appellant was laid off in 2020 .

Appellant is deemed to afford \$849.65 for health insurance coverage because of their income. Private insurance in the market place was \$864.00 per month, which is more than they could afford. On these facts, I find that Appellant has shown that they were precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-797

**Appeal Decision** Appeal Approved

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

**Hearing Date:** November 16, 2021

**Decision Date:** November 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated October 22, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, Dated May 19, 2021

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-one years old and is single. He lives in California.
2. Appellant works in a sales business.
3. Appellant lives in California in 2021.
4. Appellant had health insurance through June 2020, when he moved to Mexico to care for his dying father. (See Exhibit 3). Appellant produced records of his father's illness and death and testified to his moving to Mexico to care for his father during his terminal illness, which I give full credit
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, you incurred a significant increase in essential expenses resulting directly from the sudden responsibility for providing full care for an aging parent" and "Other. During 2020 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, you incurred a significant increase in essential expenses resulting directly from the sudden

responsibility for providing full care for an aging parent” and “Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable”

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

Appellant had health insurance through June 2020, when he moved to Mexico to care for his dying father. (See Exhibit 3). Appellant produced records of his father’s illness and death and testified to his moving to Mexico to care for his father during his terminal illness, which I give full credit

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_2\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20516

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

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

**Hearing Date:** September 14, 2021

**Decision Date:** November 1, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 14, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on March 30, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated August 5, 2021 for September 14, 2021 hearing
- Exhibit 4: Appellant's Federal Tax form 2020, Form 1040, 1st page
- Exhibit 5: Final Appeal Decision, Tax Year 2018 dated December 31, 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 40 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$59,427 in 2020 (Testimony of Appellant, Exhibit 2).
4. In 2020, Appellant worked as a server at banquets in hotels from January through mid-March. The appellant earned \$12,000 at these jobs. When the pandemic closed things down, the appellant lost all of his work. He was unemployed from mid-March until mid-June, 2021 (Testimony of Appellant, Exhibit 1 attachment, Exhibit 4).
5. Once he lost his employment, Appellant collected unemployment compensation. During 2020, he collected about \$47,000. These payments were not guaranteed and were often late in arriving (Testimony of the Appellant, Exhibit 1 attachment, and Exhibit 4).



6. Appellant was not offered health insurance through employment in 2020. As of the date of this hearing, the appellant had health insurance (Testimony of Appellant).
7. Appellant has been assessed a tax penalty for all of 2020. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$59,427 could afford to pay \$396 per month for health insurance. According to Table 4, Appellant, 40 years old and living in Norfolk County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned more than \$37,470 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2020: rent-\$1,600; heat and electricity-\$200; telephone and internet-\$305; food, household items, and personal items-\$500; insurance-\$92; gas-\$215; clothing-\$40. Appellant had no expenses for dental care during the year (Testimony of Appellant).
15. Appellant had no health insurance coverage in 2018 and 2019. He appealed the 2018 tax penalty; his appeal was denied. In 2019, he did not appeal and was subject to a penalty for the full year. Appellant paid over \$3,000 in tax penalties in early 2021 (Exhibit 1, attachment, Exhibit 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

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

the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period.

Appellant had no health insurance in 2020. The appellant has been assessed a penalty for all of 2020. The appellant appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$59,427 could afford to pay \$396 per month for health insurance. According to Table 4, Appellant, 40 years old and living in Norfolk County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

In 2020, Appellant worked as a server at banquets in hotels from January through mid-March. The appellant earned \$12,000 at these jobs. When the pandemic closed things down, the appellant lost all of his work. He was unemployed from mid-March until mid-June, 2021. Once he lost his employment, Appellant collected unemployment compensation. During 2020, he collected about \$47,000. These payments were not guaranteed and were often late in arriving. Appellant was not offered health insurance through employment in 2020. (Testimony of the Appellant, Exhibit 1 attachment, and Exhibit 4).

Appellant was ineligible for coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$59,427, more than the income limit for one person (\$37,470). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020: rent-\$1,600; heat and electricity-\$200; telephone and internet-\$305; food, household items, and personal items-\$500; insurance-\$92; gas-\$215; clothing-\$40. Appellant had no expenses for dental care during the year. See the testimony of the appellant which I find credible.

Appellant earned about \$12,000 during the first two and a half months of 2020, or about \$4,900 a month. During this period his expenses were about \$3,000. Appellant could have enrolled in a Connector Health plan in December

through January 23, 2020. Appellant could have purchased a plan through the Connector for as little as \$316 a month, leaving him over \$1,500 of disposable income. He chose not to do this, even though he had been assessed a tax penalty in 2018 and 2019. In 2018, he appeared for a hearing and received a written decision dated December 31, 2019. Appellant knew of the law requiring him to obtain coverage and understood the penalty for not complying with the law.

Once Appellant lost his employment because of the pandemic, his income decreased. His only source of income was unemployment compensation. While he received \$47,000 over a ten-month period, the appellant did not consistently receive the benefits and it was unclear whether the benefits would continue throughout the year. See the testimony of the appellant which I find credible and Exhibit 1 attachment, Exhibit 4. Given the uncertainty Appellant had about receiving a steady income, or any income at all, from March through December, I find that the cost of purchasing health insurance from mid-March through December was unaffordable for the appellant.

I find that Appellant's penalty should be waived from March through December pursuant to 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant on appeal. The appellant's loss of all employment because of the pandemic changed Appellant's financial situation greatly. Though he did receive unemployment benefits, there was no guarantee that benefits would continue and no guarantee that the appellant would continue to receive the same amount consistently.

I also note that Appellant had health insurance at the time of this hearing. See the testimony of the appellant which I find credible.

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

## **PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   2  

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-602

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** October 14, 2021  
**Decision Date:** November 12, 2021

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 14, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated April 7, 2021
- Exhibit 3: Correspondence from Health Connector, dated September 2, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 28 years old in 2020 and resided in Bristol County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$20,439 (Exhibit 1).
4. Appellant was unemployed during January through April and during November and December 2020 (Testimony of Appellant).
5. Appellant was employed during May through October and employer sponsored health insurance was not available (Testimony of Appellant).
6. Appellant's father was very ill in 2020 (Testimony of Appellant).
7. In 2020, Appellant's father lived with Appellant and Appellant helped support the father and took care of the father (Testimony of Appellant).
8. Appellant had the following monthly expenses for necessities in 2020: Rent \$975; Utilities \$200; Food \$250; Supplies \$100; Clothing \$50; car insurance \$165; gasoline \$200; and car maintenance \$83. Appellant's monthly expenses for necessities were \$2,023.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

10. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$20,439 could afford to pay \$49 per month for private insurance. According to Table 4, Appellant, who was 28 years old and lived in Bristol county could have purchased private insurance for a cost of \$269 per month.

11. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).

12. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).

13. Appellant began a new job in March 2021 and enrolled in employer sponsored health insurance coverage after a waiting period (Testimony of Appellant).

14. Appellant did not have health insurance for twelve months of 2020 (Testimony of Appellant and Exhibit 1).

15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).

16. Appellant filed a hardship Appeal on March 18, 2021 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was income eligible for government subsidized health insurance so we must consider whether the purchase of insurance would have caused Appellant experience a hardship. Appellant’s expenses for basic necessities were \$2,203. Appellant’s monthly income was \$1,703. Appellant also cared for and helped support a parent. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1) (d 3) and (e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

OR

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

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

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

#### **ADDENDUM**

**At the time of the hearing, Appellant was covered by employer sponsored health insurance. If Appellant's coverage under employer sponsored health insurance should end, Appellant should contact the Health Connector at 1 877-623-6765 to find out about affordable health insurance options.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-604

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** October 14, 2021  
**Decision Date:** November 22, 2021

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 14, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated April 24, 2021
- Exhibit 3: Correspondence from Health Connector, dated September 2, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 58 years old in 2020 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$74,218 (Exhibit 1).
4. Appellant had been covered by employer sponsored health insurance in 2019 (Testimony of Appellant).
5. Appellant was required to renew the employer sponsored health insurance for 2020 during October 1 through October 21, 2019 (Exhibit 2 and Testimony of Appellant).
6. Appellant was very ill during October 2019 (Testimony of Appellant)
7. Due to Appellant's illness, Appellant lost track of the enrollment renewal period and did not renew the health insurance in October 2019 for 2020 (Testimony of Appellant).
8. Appellant was not permitted to enroll in the health insurance after Appellant missed the October enrollment period (Testimony of Appellant).
9. Appellant and family members were ill with Covid 19 in 2020 (Testimony of Appellant).
10. Appellant struggled with the illness and also helped the family members financially (Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

12. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$74,218 could afford to pay \$495 per month for private insurance. According to Table 4, Appellant, who was 58 years old and lived in Middlesex county could have purchased private insurance for a cost of \$432 per month.

13. Private insurance was considered affordable for Appellant in 2020 (Schedule HC for 2020).

14. Appellant, earning more than \$37,470 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).

15. Appellant did not have health insurance for twelve months of 2020 (Testimony of Appellant and Exhibit 1).

16. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).

17. Appellant filed a hardship Appeal on April 24, 2021 (Exhibit 2).

18. Appellant was covered by employer sponsored health insurance in 2021 (Testimony of Appellant).

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

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was considered able to afford private health insurance in 2020, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant missed the enrollment period for the employer sponsored health insurance in October 2019 due to illness and was not permitted to re-enroll. Appellant’s family became ill with Covid 19 in 2020. Appellant tried to help out other family members financially who were struggling with the illness. Given these circumstances, I find that Appellant suffered a hardship and Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2020, 956 CMR 6.08 (3), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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



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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-618

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** October 21, 2021

**Decision Date:** November 23, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

Exhibit 1: Schedule HC for Healthcare from DOR

Exhibit 2: Notice of Appeal and supporting documents, dated April 27, 2021

Exhibit 3: Correspondence from Health Connector, dated September 8, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 23 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Plymouth County during 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2020 was \$32,955 (Exhibit 1).
4. During 2020, employer sponsored health insurance was not available to Appellant, since Appellant was a part-time employee (Testimony of Appellant).
5. Appellant had previously been covered under a parent's plan, but that was no longer available to Appellant in 2020 (Testimony of Appellant).
6. Appellant enrolled in a membership plan in September 2020 that only covered a few medical appointments at a discount (Exhibit 2 and Testimony of Appellant).
7. Appellant was unaware that Appellant might qualify for government subsidized health insurance in 2020 (Testimony of Appellant).
8. Appellant applied for government subsidized health insurance in October 2020 and coverage started in January 2021 (Testimony of Appellant).
9. Appellant lived with family in 2020 in order to afford living expenses (Testimony of Appellant).
10. Appellant used the income from the part time job to pay for essential expenses and to contribute to the family's expenses (Testimony of Appellant).

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

12. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents with an adjusted gross income of \$32,955 could afford to pay \$137 per month for private insurance. According to Table 4, Appellant, aged 23, filing as single with no dependents and living in Plymouth County could have purchased private insurance for \$269 per month.

13. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).

14. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).

15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).

16. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on April 27, 2021 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1).

Appellant has been assessed a tax penalty for twelve months. Appellant joined a membership plan in September 2020 that only covered a few medical appointments at a discount and therefore did not meet Massachusetts Creditable Coverage standards. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship.

Appellant was income eligible for government subsidized health insurance. Appellant lived with family which helped Appellant to meet basic expenses. Appellant worked part-time and used the income to contribute to household expenses. When Appellant became aware that Appellant might be eligible for government subsidized health insurance, Appellant applied for such insurance, which began in January 2021. Given these circumstances, I find that the penalty assessed against Appellant for 2020 should be waived in its entirety. See 956 CMR 6.08 (3), Schedule HC for 2020, Exhibits 1, 2 and Testimony of Appellant which I find to be credible.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-630

**Appeal Decision** Appeal Approved

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

**Hearing Date:** October 25, 2021

**Decision Date:** November 22, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on October 25, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated September 9, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, Dated April 20, 2021
- Exhibit 4: Written Statement of Appeal Dated April 26, 2021
- Exhibit 5: Open Record documents

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single. He lives in Suffolk county.
2. Appellant moved to Paris and September 2019. He leased an apartment there . He provided proof of a lease with documents sent by the open record request. When Appellant moved back to the United States, he resided with his mother in Illinois. Hed moved back to Massachusetts in October 2020.
3. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable"
4. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "Other. During 2020 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable"

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$25,365.00 for a married person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant moved to Paris and September 2019. He leased an apartment there . He provided proof of a lease with documents sent by the open record request. When Appellant moved back to the United States, he resided with his mother in Illinois. Hed moved back to Massachusetts in October 2020.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-637

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** October 26, 2021  
**Decision Date:** November 26, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on October 26, 2021. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 15, 2021
- Exhibit 3: Correspondence from Health Connector, dated September 9, 2021
- Exhibit 4: Final Appeal Decision for 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 23 years old in 2020 and resided in Worcester County (Exhibit 1).
2. Appellants filed a Massachusetts 2020 tax return as married filing jointly with one dependent claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2020 of \$61,573 (Exhibit 1).
4. Appellant worked during January through March 2020 and was laid off in March due to the Covid 19 pandemic (Testimony of Appellant).
5. Appellant returned to work in October, but business was very slow, and Appellant worked on a very part-time basis (Testimony of Appellant).
6. Appellant Spouse worked early in the year until the company closed. Appellant Spouse did not return to work in 2020 (Testimony of Appellant).
7. Appellants struggled to pay for basic necessities after both lost their jobs (Testimony of Appellant).
8. Appellants fell behind in paying their rent during 2020 (Testimony of Appellant).
9. Appellants fell behind in their electric and gas bills in 2020 (Testimony of Appellant).

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

11. According to Table 3 of Schedule HC for 2020 a couple filing as married filing jointly with one dependent claimed with an adjusted gross income of \$61,573 could afford to pay \$300 per month for private insurance. According to Table 4, Appellants, who were 23 years old and lived in Worcester county could have purchased private insurance for a cost of \$696 per month.

12. Private insurance was not considered affordable for Appellants in 2020 (Schedule HC for 2020).

13. Appellants, earning less than \$63,990 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).

14. Appellant did not have health insurance for twelve months of 2020. Appellant spouse was covered by health insurance (Testimony of Appellant and Exhibit 1).

15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).

16. Appellant filed a hardship Appeal on March 15, 2021 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was income eligible for government subsidized health insurance in 2020, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities and fell more than thirty days behind in rent. Appellant also fell behind in the electricity and gas bills. I find that Appellant suffered a hardship and health insurance was not affordable for 2020. See Schedule HC for 2020, 956 CMR 6.08 (1)(a) and (b), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

### **PENALTY ASSESSED**

Number of Months Appealed: 12/0

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to

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

OR

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

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

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

**ADDENDUM**

**If Appellant or Appellant Spouse do not have health insurance, Appellants should contact the Health Connector at 1 877 623-6765 to find out about affordable options.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-639

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** October 26, 2021  
**Decision Date:** November 29, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on October 26, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated April 19, 2021
- Exhibit 3: Correspondence from Health Connector, dated September 9, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 34 years old in 2020 and resided in Middlesex County from January through October 2020 (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant filed a Massachusetts 2020 tax return as a part year resident from Jan 1, 2020 to October 21, 2020 (Exhibit 1)
4. Appellant had an Adjusted Gross Income for 2020 of \$63,735 (Exhibit 1).
5. During 2020, Appellant worked on a contract basis and each contract was for ninety days with no guarantee of renewal (Testimony of Appellant and Exhibit 2).
6. Appellant was not eligible for employer sponsored insurance during the time that Appellant resided in Massachusetts (Testimony of Appellant).
7. Appellant lived with Appellant's parents during the time that Appellant lived in Massachusetts (Testimony of Appellant).
8. Appellant's parents lost income in 2020 and struggled financially (Testimony of Appellant).
9. Appellant's parents decided to move out of state for a lower cost of living (Testimony of Appellant).
10. Appellant moved out of state in order to be near the family and to help them with care and expenses (Testimony of Appellant).

11. Appellant had expenses for closing costs, moving expenses and living expenses (Testimony of Appellant and Exhibit 2).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
13. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$63,735 could afford to pay \$425 per month for private insurance. According to Table 4, Appellant, who was 34 years old and lived in Middlesex county could have purchased private insurance for a cost of \$288 per month.
14. Private insurance was considered affordable for Appellant in 2020 (Schedule HC for 2020).
15. Appellant, earning more than \$37,470 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).
16. Appellant did not have health insurance for the time Appellant lived in Massachusetts in 2020 (Testimony of Appellant and Exhibit 1).
17. Appellant has been assessed a penalty for six months for 2020 (Exhibit 1).
18. Appellant filed a hardship Appeal on April 19, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for six months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was considered able to afford private insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant lived with family and Appellant’s family experienced financial circumstances so that they could not afford the living expenses at their home in Massachusetts. Appellant helped the family relocate and Appellant also moved. Appellant paid for closing costs, moving costs and living expenses. I find that purchasing health insurance would have caused Appellant a hardship. See Schedule HC for 2020, 956 CMR 6.08 (3), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 6

Number of Months Assessed: 0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-648

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** October 18, 2021

**Decision Date:** November 2, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on October 18, 2021 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 24–years-old, is single, and does not have children. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant had health insurance under his mother’s plan. (Testimony)
3. The appellant believed that he remained insured under his mother’s plan throughout 2020. He had no medical issues which required him to use insurance during the year. He was employed for the entire year and was eligible for employer health insurance, but declined it on the assumption that he was insured through his mother. (Testimony)
4. The appellant’s 2020 tax returns were prepared by a friend of a friend. He did not receive any documentation indicating that he had health insurance for all or part of 2020, and the tax preparer did not discuss the matter with him. The first notice the appellant received that he did not have insurance in

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

2020 was a “letter” from the state Department of Revenue (DOR) after his 2020 returns were filed in 2021, advising him of his right to an appeal of the penalty for being uninsured. Upon further investigation, he determined that he had been dropped from his mother’s plan in 2020. His mother did not provide an explanation for his removal. (Testimony)

5. The appellant started a new job in February, 2021 and has been enrolled in employer health insurance since that time. (Testimony)
6. Prior to 2020, the appellant had never been assessed a tax penalty for failure to obtain health insurance. (Testimony)
7. The appellant reported an adjusted gross income of \$46,093.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Testimony, Ex. 2)

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2020 because “other” circumstances prevented him from obtaining insurance. He indicated on his statement that he believed he was insured through his mother.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified that prior to 2020 he had health insurance under his mother’s plan. He testified that he believed he remained insured under her plan in 2020, and had no medical issues during the year which required him to use the insurance. He testified that his 2020 tax returns were prepared by a friend of a friend who did not discuss any insurance matters with him. He testified that the first notice he received that he was uninsured was the “letter” he received from the DOR advising him of a right to appeal the penalty he was assessed for not having insurance. He testified that after investigating the matter, he determined that he had been dropped from his mother’s plan and she could not provide an explanation for the removal. Finally, he testified that he has been enrolled in employer health insurance since starting a new job in February, 2021.

It is not outside the realm of possibility that the appellant believed that he had insurance under his mother’s plan in 2020, just as he had in prior years. He testified credibly that he had no medical issues during the year which would have required him to use his insurance. However, it strains credulity that his tax preparer did not advise him during the course of preparing his returns that he was subject to a penalty for being uninsured during 2020. It is equally difficult to comprehend that he was completely unaware that he had lost coverage until being notified by the DOR of his right to appeal the penalty that had been assessed for lack of insurance. Notwithstanding these concerns, based on the totality of the evidence, it is concluded that the appellant should not be subject to a penalty for the months in question. In reaching this determination, the fact that the appellant has been enrolled



in employer health insurance for the better part of 2021 was taken into consideration as it demonstrates that the mandate to obtain health insurance was not lost on him.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted**. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-649

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** October 18, 2021

**Decision Date:** November 4, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on October 18, 2021, 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—2020
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Final Appeal Decision in PA13-445 dated May 2, 2014
- Ex. 4—Final Appeal Decision in PA15-17 dated May 24, 2016
- Ex. 5—Final Appeal Decision in PA16-391 dated November 16, 2017
- Ex. 6—Final Appeal Decision in PA17-415 dated January 30, 2019
- Ex. 7—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 43-years-old, is single, and has no children. He resided in Barnstable County, MA in 2020. He had health insurance for the months of January and February, 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant had employer health insurance in 2019 and for most of 2018. (Testimony)
3. The appellant had employer health insurance for the months of January and February, 2020. He began a new job in March in an effort to ultimately transition to a new career. The employer offered

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

health insurance which was more expensive than what he paid at his prior job.<sup>2</sup> Within a number of days after starting his new job, the pandemic broke out and the appellant was extremely anxious about his job security given that he was low man on the totem pole without any seniority. His hours were reduced immediately and other employees were laid off. The appellant's main concern was saving as much money as possible in the event that he was separated from employment, and he decided not to enroll in employer health insurance as a result. (Testimony)

4. The appellant stayed in employment for the rest of the year and did not suffer any additional adverse consequences, but remained concerned that his job was in jeopardy. He left that position in March, 2021, and found a new job in June, 2021. At the time of the instant hearing, he had not enrolled in health insurance for any part of 2021. (Testimony)
5. The appellant has filed four prior tax penalty appeals for not having health insurance for the following tax years: 2013, 2015, 2016 and 2017. In each appeal, the hearing officer determined that the cost of purchasing of insurance would have caused a financial hardship and the penalty was waived in full. In the Final Decision in PA16-391, the hearing officer noted that it was the appellant's third penalty appeal based on similar circumstances, and advised him to investigate his eligibility for government subsidized insurance. (Testimony, Exs. 3,4,5,6)
6. The appellant reported an adjusted gross income of \$32,803.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$1565.00 for rent which included heat and electricity (\$650.00); cell phone (\$90.00); automobile payment (\$315.00); automobile insurance (\$110.00); food (\$300.00) and gasoline (\$100.00). In addition, he paid approximately \$225.00/month for credit card debt. (Testimony)

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

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because the cost of purchasing insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. He also submitted a letter with his statement in which he stated in part that he feared for his life and his job due to Covid, and did not think that spending money on something extra like insurance seemed smart. He further stated that his main concern was saving as much money as possible in so that he could cover his basic living expenses in case he was let go. Finally, he stated that he is still being very frugal with his money as the pandemic is not over yet.<sup>1</sup>

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<sup>2</sup> Since the appellant no longer works for the same employer that he worked for in 2020, no Open Record Request was made to obtain information on the cost and terms of employer health insurance in 2020.

The appellant did not have insurance from March through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for ten months, he was assessed and is appealing a penalty of seven months (i.e., the months of uninsured less the gap period of three months).

The appellant testified that he had employer health insurance in January and February, 2020, and started a new job in March. He testified that he was eligible for employer health insurance which was more expensive than his previous job. He testified that the pandemic broke out within a few days of starting, and he feared that his job might be in jeopardy because he had no seniority. He testified that his main focus was on saving money in the event that he was laid off, and he decided not to enroll in employer health insurance. He testified that his hours were reduced, but that he did not suffer any other adverse job consequences. He testified that he remained employed until March, 2021. Finally, he testified that he got a new job in June, 2021, but did not enroll in employer health insurance.

(The following analysis will proceed without determining whether employer health insurance would have been affordable to the appellant due to the lack of information on the issue.)

The evidence provided by the appellant established that his income for 2020, \$32,803.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$31,226.00 and \$37,470.00 is deemed to be able to afford a monthly premium of \$136.68 (5.00% of \$32,803.00/12). Table 4 of the Premium Schedule indicates that a 42-year-old individual (the age of the appellant in 2020) in Barnstable County (where the appellant resided in 2020) could have purchased private health insurance for \$316.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2020.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$136.68 per month, pursuant to the aforementioned Affordability Schedule in Table 3. (However, it is noted that if employer health insurance was determined to be affordable, the appellant would not have been eligible for subsidized health insurance. In the absence of any information on the matter, it is not possible to make that determination.)

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in

2020, he incurred basic monthly expenses of approximately \$1790.00, including his credit card debt. Although those expenses were less than his regular monthly pre-tax income of approximately \$2734.42 thereby making a subsidized health insurance premium of \$136.58/month seemingly manageable, the approximate difference between income and expenses of \$944.00/month was an inadequate cushion to cover a subsidized insurance premium of \$136.58, particularly in light of the miscellaneous living expenses which inevitably arise. Moreover, the pandemic caused huge upheaval and untold amounts of uncertainty and anxiety, all of which legitimately contributed to the appellant's reluctance to obtain insurance. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Notwithstanding this determination, the appellant is advised that this will now be his fifth appeal of a tax penalty in the past eight years, and it is arguable that a pattern has developed with regard to not having health insurance. While he has clearly qualified for a waiver of the penalty based on financial hardship in his prior appeals, he is advised not to rely on a similar extension of leniency should he be assessed and appeal a tax penalty in the future. The events of 2020 were historic and unprecedented, thereby necessitating a different standard of review. The same will not necessarily be true going forward.

Based upon the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   7  

Number of Months Assessed:   0  

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant is advised that the Open Enrollment Period for health insurance for 2022 runs from November 1, 2021 through January 23, 2022. He is urged to investigate his options for health insurance through the Health Connector at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-654

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** October 18, 2021

**Decision Date:** November 20, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on October 18, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 28-years-old, is single, and does not have children. He resided in Barnstable County, MA in 2020. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance in 2016 through MassHealth. He has not been able to afford it since then. He was subject to a penalty for the 2015 and 2017 tax years for not obtaining insurance for all or part of those years. (Testimony)
3. The appellant was employed in 2020 and the employer did not offer health insurance. He called the Health Connector to inquire about insurance options and was advised by a customer service representative that he was not eligible for subsidized insurance. He was further advised that he could have enrolled in a plan for approximately \$200.00/month which he could not afford. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant still works for the same employer and has not enrolled in health insurance for 2021. (Testimony)
5. The appellant reported an adjusted gross income of \$20,393.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
6. In 2020, the appellant had regular monthly expenses of approximately \$1512.00 for rent (\$600.00); heat (\$75.00); electricity (\$35.00); cable and internet service (\$95.00); automobile insurance (\$47.00); food (\$500.00) and gasoline (\$160.00). In addition, he paid approximately \$292.00/month for credit card debt. (Testimony)

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

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that the last time he had health insurance prior to 2020 was in 2016 through MassHealth. He testified that he paid a penalty for the 2015 and 2017 tax years for failure to obtain insurance. He testified that he was employed in 2020, but no insurance was available through the employer. He testified that he called the Health Connector and spoke with a customer service representative who advised him that he was not eligible for subsidized health insurance. He testified that he was further advised that he could enroll in an insurance plan that would have cost approximately \$200.00/year which he could not afford. <sup>2</sup> Finally, he testified that he still works for the same employer and did not enroll in insurance for 2021.

The evidence provided by the appellant established that his income for 2020, \$20,393.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability

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<sup>2</sup> Based on the analysis which follows, it is unclear why the appellant was advised that he was not eligible for subsidized health insurance since his income clearly falls within the parameters which would have qualified him for subsidies. It is possible that he advised the Health Connector of other factors which might have deemed him ineligible.



Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$18,736.00 and \$24,980.00 is deemed to be able to afford a monthly premium of \$49.28 (2.90% of \$20,991.00/12). Table 4 of the Premium Schedule indicates that a 27-year-old individual (the age of the appellant in 2020) in Barnstable County (where the appellant resided in 2020) could have purchased private health insurance for \$269.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2020.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$49.28 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$1804.00, including his credit card debt. Those expenses were more than his regular monthly pre-tax income of approximately \$1699.00 thereby making a private health insurance premium of \$49.28/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

#### **PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant is advised that the Open Enrollment Period for health insurance for 2022 runs from November 1, 2021 through January 23, 2022. He is urged to investigate his options for health insurance through the Health Connector at [mahealthconnector.org](https://mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-662

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** October 21, 2021  
**Decision Date:** November 26, 2021

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 21, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated April 30, 2021
- Exhibit 3: Correspondence from Health Connector, dated September 8, 2021

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2020 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$37,349 (Exhibit 1).
4. Appellant was laid off from a job at the end of 2019 (Testimony of Appellant).
5. Appellant worked in the hospitality industry and was unemployed for all of 2020 (Testimony of Appellant).
6. Due to the Covid 19 crises Appellant's field of employment is unlikely to return (Testimony of Appellant).
7. Appellant took classes to retrain in order to obtain stable employment (Testimony of Appellant).
8. Appellant also spent \$20,000 to purchase equipment for a new career (Testimony of Appellant).
9. Appellant struggled to pay expenses for basic necessities, including a car payment and car insurance payment of \$835 per month and student loans for \$330 for part of the year (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

11. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$37,349 could afford to pay \$156 per month for private insurance. According to Table 4, Appellant, who was 27 years old and lived in Middlesex county could have purchased private insurance for a cost of \$269 per month.
12. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
13. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
14. Appellant did not have health insurance for twelve months of 2020 (Testimony of Appellant and Exhibit 1).
15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
16. Appellant filed a hardship Appeal on April 30, 2021 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was income eligible for subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities after being laid off at the end of 2019. Due to the Covid 19 pandemic Appellant was unsure of when Appellant would be employed again and Appellant focused on retraining for a new profession or business. Appellant struggled to pay for living expenses. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

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

**ADDENDUM**

**If Appellant still does not have health insurance, Appellant should contact the Health Connector at 1 877 623-6765 to find out about affordable options.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-675

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 1, 2021

**Decision Date:** November 8, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellants appeared at the hearing, which was held by telephone, on November 1, 2021. The procedures to be followed during the hearing were reviewed with the Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on April 15, 2021.
- Exhibit 4: The Appellants' letter in support of the appeal, with attachments.
- Exhibit 5: A copy of the Cigna Summary of Benefits for the Appellants' employer sponsored health insurance for tax year 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, primary taxpayer, age 45 in November, 2020 and their Spouse, age 44 in December 2020, filed their Federal Income Tax return as a married couple with two dependents claimed (Exhibit 2).
2. The Appellants lived in Norfolk County, MA in 2020 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2020 was \$166,077 (Exhibit 2).
4. The Appellants did not have insurance that met Massachusetts minimum creditable coverage requirements (MCC) for any months in tax year 2020 (Exhibits 2, 4 and Appellants' Testimony).

5. The Appellants have each been assessed a twelve-month tax penalty for 2020. The Appellants filed an appeal of the assessment in April 2021 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with two dependents claimed, with an annual adjusted gross income of \$166,077 could afford to pay \$1,107 per month for health insurance. In accordance with Table 4, the Appellants with one person aged 45, living in Norfolk County, could have purchased private insurance for \$833 per month for a plan (Schedule HC for 2020). Private insurance was affordable for the Appellants in 2020.
8. The Appellants would not have been eligible for ConnectorCare coverage in 2020 because the Appellants' income was greater than 300% of the federal poverty level, which was \$77,250 for a household of four in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
9. The Appellant testified that they are employed by a company headquartered in Ohio. Every year the company changes health insurance plans. The Appellant explained that they were enrolled in the company's Cigna plan and were notified in February that the plan met Affordable Care Act (ACA) requirements did not meet Massachusetts MCC requirements. The Appellant said that they looked into buying other insurance but the cost jumped from the \$330 they were paying to over \$1,000. The Appellant said that it was around this time that Covid hit and the Appellant's company cut everyone's pay by 10% for three months. The Appellant's credible testimony is supported by documentation from their employer (Exhibit 4 and Appellant Testimony).
10. The Appellant Spouse testified that due to Covid their company shut down for a couple of months and when it reopened, the Spouse had part time hours for several more months. The Spouse explained that due to the insecurity of their employment status, they were afraid to increase their monthly health insurance premium to over \$1,000 (Appellant Spouse Testimony).
11. The Appellants submitted a copy of the Summary of Benefits for their 2020 Cigna Health plan. The plan's deductibles were significantly higher than Massachusetts limits but provided coverage for a wide range of medical services. The Appellant Spouse explained that the deductibles were in place for hospitalization but the family only paid the routine co-payments for doctor visits and needed diagnostic tests. The Appellants indicated that the plan met the family's needs and they did not incur any extraordinary expenses (Exhibit 5, Appellant Testimony, Spouse Testimony).
12. The Appellants' monthly living expenses of \$4,316 included: mortgage-\$1,350; property taxes-\$534; heat-\$150; electricity-\$180; car insurance-\$167; food-\$1,083; gasoline-\$347; water/sewer-\$67; home insurance-\$108 and health insurance \$330 (Appellants' Testimony)
13. In accordance with Table 3 of HC 2020, the Appellants were determined financially able to pay \$1,107 monthly for health care. The Appellant paid \$330 monthly for employer sponsored health

coverage that did not meet MCC requirements. Under Table 4 of HC 2020, private insurance was available at a cost of \$833. Given the Appellant's monthly premiums of \$330, purchasing private insurance would have raised the Appellant's monthly premiums to \$1,163. This is more than the \$1,107 deemed affordable to the Appellant (Schedule HC-200 and Exhibits 4, 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Both the Appellant and their Spouse testified that although the Cigna plan had high deductibles for hospital care, they were only responsible for routine co-payments for medical treatment, medication, and diagnostic testing. The plan met the family's needs for tax year 2020. Although the deductibles for hospitalization were high, the Appellants' insurance substantially met other MCC requirements. 956CMR 6.08(2)(d).

The Appellants did not have health insurance that met MCC requirements for any months in tax year 2020 and consequently each has been assessed a twelve-month penalty. The Appellants assert that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with two dependents claimed with an adjusted gross income of \$166,077 could afford to pay \$1,107 per month for health insurance. According to Table 4, the Appellants with one person age 45, living in Norfolk County, could have purchased a private insurance plan for \$833 month. See Schedule HC for 2020. Private insurance was affordable for the Appellants in tax year 2020.

The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants' income which was greater than \$77,250 for their household of four. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellants in 2020, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they are employed by a company based in Ohio. At the end of 2019 the Appellant enrolled in the Cigna health plan offered by the company for tax year 2020 paying a monthly premium of \$330.



The Appellant said that the company often changes carriers and the Appellant did not learn until February 2020 that the Cigna plan met the ACA requirements but did not meet MCC requirements. The Appellant said that they looked into buying a private plan but the cost was almost triple what they were paying through work. The Appellant indicated that around the same time Covid hit and their company reduced everyone's pay by 10% per month for three months. The Appellant Spouse's company closed for two months and then the Spouse was working only about 30 hours weekly. The couple testified to substantial monthly living expenses for their household of four and explained that due to the uncertainty of their employment they were afraid to take on a more expensive health plan.

In accordance with Table 3 of HC 2020, the Appellants were determined financially able to pay \$1,107 monthly for health care. The Appellants paid \$330 monthly for employer sponsored health coverage that did not meet MCC requirements. Under Table 4 of HC 2020 private insurance was available at a cost of \$833. Given the Appellants' monthly premiums of \$330, purchasing private insurance would have raised the Appellant's monthly premiums to \$1,163. This is more than the \$1,107 deemed affordable to the Appellants under Table 3 of Schedule HC 2020. Given the uncertainty of their income during Covid and the fact that the Appellants' verified substantial monthly living expenses, purchasing additional health insurance would have caused the Appellants to experience a significant financial hardship. The Appellants twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

Appellant:	Number of Months Appealed: <u>  12  </u>	Number of Months Assessed: <u>  0  </u>
Appellant Spouse:	Number of Months Appealed: <u>  12  </u>	Number of Months Assessed: <u>  0  </u>

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-676

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 1, 2021

**Decision Date:** November 17, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 1, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on April 20, 2021.
- Exhibit 4: A letter from the Appellant's attorney with Form 1095-C 2020 attached.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated November 1, 2021.
- Exhibit 5: A copy of the Empire Plan Summary of Benefits for the employer sponsored health insurance for tax year 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 23 in April 2020, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampshire County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$34,125 (Exhibit 2).
4. According to their schedule HC, the Appellant did not have insurance that met Massachusetts minimum creditable coverage requirements (MCC) for any months in tax year 2020 (Exhibits 2).

5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in April 2021 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$34,125 could afford to pay \$142 per month for health insurance. In accordance with Table 4, the Appellant, age 23, living in Hampshire County, could have purchased private insurance for \$241 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.
8. The Appellant submitted a letter from their attorney with a copy of Form 1095-C 2020 with their appeal request. The Appellant's parent is employed by a municipality in New York state and has employer sponsored health insurance that met Affordable Care Act standards and covered the Appellant for all months of tax year 2020 (Exhibit 4).
9. The Appellant had access to and was in fact enrolled in a health insurance plan that met minimum essential requirements (MEC) and therefore was not eligible for ConnectorCare coverage in 2020 despite having income was less than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 4).
10. The Appellant testified that they work at a school in Western Massachusetts. When the Appellant began the job, the school advised them to stay on their parent's health insurance plan because the plan was affordable and comprehensive. The Appellant was unsure of the cost of the employer's insurance but believes it was more than the \$142 deemed affordable under Table 3 of Schedule HC 2020. The Appellant said that they do not know why their plan does not meet Massachusetts MCC requirements (Appellant Testimony).
11. The record was left open to allow the Appellant to submit a copy of the Summary of Benefits for their parent's health plan (Exhibit 5).
12. The Appellant submitted a copy of the Summary of Benefits for the Empire Plan. The Plan offered a wide range of medical services that essentially met MCC requirements. The Plan did not include maternity services for the pregnant daughter of the subscriber (Exhibit 6).
13. In tax year 2020 the Appellant did not have access to affordable health insurance meeting MCC requirements through the private market, their employer or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 4, 6 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the

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

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

The Appellant did not have health insurance that met MCC requirements for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because they were unaware that their health plan did not meet MCC requirements. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$34,125 could afford to pay \$142 per month for health insurance. According to Table 4, the Appellant, age 23, living in Hampshire County, could have purchased a private insurance plan for \$241 month. See Schedule HC for 2020. Private insurance was not affordable for the Appellant in tax year 2020.

The Appellant testified that they are employed by a private boarding school in Western Massachusetts. The Appellant testified that when hired, their employer advised them to stay on their parent's health insurance plan because the school's plan was costly. The Appellant was unsure of the amount of the monthly premium but believes it was more than the \$142 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2020.

The Appellant's parent is employed by a municipality in New York state. The Appellant had health insurance for all twelve months of tax year 2020 under their parent's employer sponsored plan. The plan met the requirements of the Affordable Care Act. The plan offered a wide range of medical services and substantially met MCC requirements other than the requirement that the plan offer maternity services for the pregnant child of the subscriber. The plan met the Appellant's needs for tax year 2020. 956CMR 6.08(2)(d).

The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant had access to and was in fact enrolled in a health plan that met MEC requirements despite having income less than \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria.

The Appellant had no affordable health insurance available to them that met MCC requirements in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2020.

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

**PENALTY ASSESSED**

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

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

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

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

Cc:      Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-680

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 1, 2021

**Decision Date:** November 8, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 1, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated April 19, 2021 with an attachment.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 34 in March 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$45,389 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April, 2021 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$45,389 could afford to pay \$287 per month for health insurance. In accordance with Table 4, the Appellant, age 34, living in Middlesex County, could have purchased private insurance for \$288 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant had no access to employer sponsored health insurance in 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified to monthly living expenses of approximately \$2,200. The Appellant said that they were unable to meet their monthly living expenses in 2020 and received an eviction notice in January. The Appellant's credible testimony was supported by a copy of a Notice to Quit issued to the Appellant on January 18, 2021. The Appellant owed back rent totaling \$7,333 (Exhibit 3 and Appellant Testimony).
10. In tax year 2020 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2020 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$45,389 could afford to pay \$287 per month for

health insurance. In accordance with Table 4, the Appellant, age 34 living in Middlesex County, could have purchased private insurance for \$288 per month (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored insurance in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$45,389 was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020.

The Appellant had no affordable health insurance available to them in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2020.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:     Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-696

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** November 4, 2021

**Decision Date:** November 10, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 4, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 5, 2021.
- Exhibit 4: The Appellant's letter in support of this appeal, with an attachment.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 45 years old in August 2020. The Appellant filed their Federal Income Tax return as a married person filing separately (Exhibit 2).
2. The Appellant and their Spouse lived together in Barnstable County, MA in 2020 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$48,235 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2020 that met Massachusetts Minimum Creditable Coverage (MCC) requirements (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2020. The Appellant filed an appeal of the assessment in May, 2021 citing grounds other than financial hardship (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a married person, filing separately from their spouse, having no dependents claimed, with an annual adjusted gross income of \$48,235 could afford to pay \$306 per month for health insurance. In accordance with Table 4, the Appellant, age 45, living in Barnstable County, could have purchased private insurance for \$722 per month for a married couple (Schedule HC for 2020). Private insurance was not affordable for the Appellant.
8. The Appellant alleged on their letter of appeal that they had health insurance in tax year 2020. In support of this statement the Appellant submitted a copy of a MassHealth denial letter dated September 10, 2019. The Appellant was determined ineligible for MassHealth and noted that the Appellant was eligible for Health Safety Net (Exhibits 3, 4).
9. The MassHealth denial notice specifically stated: The Health Safety Net is not insurance. It pays for care at certain Massachusetts community health centers and acute hospitals (Exhibit 4).
10. The Appellant testified that their employer did offer health insurance at a weekly cost of \$50. The Appellant said that initially they did not enroll because they missed the open enrollment period. The Appellant said that they had been employed by this employer since 2018. The Appellant then testified that they did not attempt to enroll in their employer's plan in 2020 because it slipped their mind. The Appellant indicated that they are now enrolled in this insurance program (Appellant Testimony).
11. The Appellant's employer sponsored health insurance for 2020 had a monthly premium of \$216.65. This is less than the \$306.00 deemed affordable to the Appellant under Table 3 of Schedule HC for 2020.
12. The Appellant was financially eligible for ConnectorCare in tax year 2020 because their income of \$48,235 was less than 300% of the federal poverty level which was \$50,730 for a household of two. To be eligible for ConnectorCare the Appellant would have had to change their filing status to married filing jointly and not have access to affordable employer sponsored health insurance (See 26 CFR § 1.36B-2T(b)(2)(i) and Table 2 of Schedule HC-2020 and 956 CMR 12.04).
13. The Appellant did not offer any evidence or testimony regarding financial hardship. When asked, the Appellant had no rent or mortgage payments but did have property taxes of \$216 per month. The Appellant testified that they did not receive any utility shut off notices or experience any other unexpected increase in expenses due to a family emergency or other human caused or natural disaster (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the

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

Any health insurance policy must also satisfy the Massachusetts "minimum creditable coverage standards" (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d). As written on the Appellant's September 10, 2019 MassHealth denial notice, Health Safety Net is not health insurance and therefore does not meet Massachusetts MCC standards for health insurance coverage.

The Appellant did not have health insurance that met MCC standards for any months in tax year 2020. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a married person, filing separately, with no dependents claimed, with an adjusted gross income of \$48,235 could afford to pay \$306 per month for health insurance. In accordance with Table 4, the Appellant, age 45, living in Barnstable County, could have purchased private insurance for \$722 per month for a married couple's plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did have access to employer sponsored health insurance with a monthly cost of \$216.65. This is less than the \$306 deemed affordable to the Appellant under Table 3 of Schedule HC 2020. The Appellant initially stated that they missed open enrollment. The Appellant acknowledged working for the same employer since 2018. When asked why the Appellant did not enroll for tax year 2020 after receiving the MassHealth denial, the Appellant stated that they did not try to get insurance because it slipped their mind.

The Appellant's income of \$48,235 was less than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020. Since the Appellant had access to affordable employer sponsored insurance and filed their tax return separate from their spouse, the Appellant was not eligible for ConnectorCare in tax year 2020 (See Table 2 of Schedule HC-2018, 956 CMR 12.04 and 26 CFR § 1.36B-2T(b)(2)(i)). Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant did not offer any evidence or testimony alleging financial hardship. When asked about their cost-of-living expenses the Appellant indicated they did not pay for rent or mortgage and paid \$649 quarterly for property taxes. The Appellant did not fall behind in their utility payments and did not incur any unexpected increase in living expenses due to a family or other type of emergency. With income of \$48,235 and the fact that

the Appellant could have enrolled in employer sponsored health insurance at a cost of \$216.65 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2020 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-697

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 4, 2021

**Decision Date:** November 10, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 4, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 14, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal submitted by the Appellant on May 3, 2021.
- Exhibit 4: The Appellant's letter in support of this appeal with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant and their Spouse, both age 36 in August 2020, filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Essex County, MA in 2020 (Exhibit 2).
3. The Appellant and their spouse had Federal Adjusted Gross Income of \$136,934 in tax year 2020 (Exhibit 2).
4. The Appellant (primary taxpayer) had employer sponsored health insurance for all of tax year 2020 and is not being assessed any tax penalty (Exhibit 2).
5. The Appellant Spouse had health insurance in January but did not have health insurance for the period of February through December in tax year 2020 (Exhibit 2, Appellant testimony).

6. The Appellant has been assessed an eight-month tax penalty for 2020. The Appellant filed an appeal of the assessment in May 2021 (Exhibits 2, 3, 4).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a married couple, with no dependents claimed, with an annual adjusted gross income of \$136,934 could afford to pay \$913 per month for health insurance. In accordance with Table 4, the Appellant, age 36, living in Essex County, could have purchased private insurance for \$591 per month for a plan (Schedule HC for 2020). Private insurance appeared affordable for the Appellant in 2020 based on their annual income (Exhibit 3).
9. The Appellant testified that the annual income of \$136,934 does not accurately reflect their financial circumstances for all of 2020. The Appellant testified that they were living with their partner during 2020 but were not married until November 29, 2020. The Appellant explained that they had health insurance through their employer in January but quit the job expecting to find a new job right away. Due to the Covid-19 outbreak this did not happen and the Appellant remained unemployed with no income for the period of February through December in 2020. Because the Appellant had voluntarily left their job, they were not eligible for unemployment compensation. The Appellant said that they planned to marry in April and would have been able to be added to their Spouse's policy, but again, due to Covid this was delayed until November 29, 2020. The Appellant's credible testimony is supported by a copy of their Marriage license dated November 29, 2020 and a copy of the Appellant's W-2 form (Exhibit 4 and Appellant Testimony).
10. The Appellant's W-2 for 2020 verified total income of \$1,519.10. For the period of February through November 2020 the Appellant was a single person with no income. The Appellant relied on their fiancée for financial support and could not afford to pay for health insurance (Exhibit 4 and Appellant Testimony).
11. As a single person for the period of February through November, the Appellant would have been eligible for ConnectorCare coverage because their income was less than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020 (See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria).
12. The Appellant was added to their spouse's employer sponsored health insurance plan effective January 2021 (Appellant testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

The Appellant had health insurance in January but did not have insurance for the period of February through December in tax year 2020. The Appellant has been assessed an eight-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in this case because of financial hardship and other circumstances. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$136,934 could afford to pay \$913 per month for health insurance. According to Table 4, the Appellant, age 36, living in Essex County, could have purchased a private insurance plan for \$591 per month. See Schedule HC for 2020. Based on the Appellant's annual adjusted gross income, private insurance appeared affordable for the appellant in 2020.

The Appellant testified credibly that the annual income figure does not accurately reflect their financial circumstances for the entire year. The Appellant and their partner lived together for all of 2020 but were not married until November 29, 2020. The Appellant's spouse (primary taxpayer) was employed full time in 2020 and had employer sponsored health insurance for all of tax year 2020. The Appellant was employed in January 2020 and had employer sponsored health insurance. The Appellant voluntarily quit the job expecting to find a new job right away. Unfortunately, due to the outbreak of Covid-19 the Appellant remained unemployed for the period of February through December. The Appellant planned to be married in April and would have been eligible for their spouse's employer sponsored health insurance, but again due to Covid-19 the Appellant was not married until November 29, 2020.

The Appellant had no access to affordable employer-sponsored health insurance for the period of February through December in 2020. As a single person for the months of February through November, the Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$37,470. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

For the period of February through November 29, 2020, the Appellant was a single person with no income. The Appellant had to rely on their fiancée for financial support. The cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's penalty for all eight months is therefore waived.

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

## **PENALTY ASSESSED**

Number of Months Appealed: \_\_\_8\_\_\_ Number of Months Assessed: \_\_\_0\_\_\_

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

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

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

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-722

**Appeal Decision:** Appeal Approved in Part and Denied in Part.

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

**Hearing Date:** November 12, 2021

**Decision Date:** November 17, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 5, 2021.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 27 years old in January 2020. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$43,614 (Exhibit 2).
4. The Appellant had health insurance for the period of September through December but did not have health insurance for the period of January through August in tax year 2020 (Exhibit 2).
5. The Appellant has been assessed a five-month tax penalty for 2020. The Appellant filed an appeal of the assessment in May 2021 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$43,614 could afford to pay \$271 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Suffolk County, could have purchased private insurance for \$269 per month for a single plan (Schedule HC for 2020). Private insurance was affordable for the Appellant.
8. The Appellant's income was greater than 300% of the federal poverty level, which was \$37,470 in 2020. The Appellant was not eligible for ConnectorCare in tax year 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
9. The Appellant explained in their letter of appeal that they were insured under MassHealth in tax year 2019 while finishing school. The Appellant was employed in 2019 and received a notice from MassHealth indicating that they were not financially eligible for MassHealth but could purchase a health plan for \$202 monthly effective January 2020. The Appellant wrote that this was not affordable. The Appellant was employed part-time by two employers for the period of January through March 2020. The Appellant did not have access to affordable health insurance from either employer (Exhibit 4 and Appellant Testimony).
10. The Appellant took a full-time job in March 2020 and expected to have health coverage after 30 days of employment. The Appellant contracted Covid-19 on April 8, 2020 and remained unemployed until August 8, 2020. The Appellant's last employer offered employer sponsored health insurance and the Appellant enrolled as of September 2020 (Exhibit 4 and Appellant Testimony).
11. The Appellant received unemployment compensation income while unemployed for the period of April 8, 2020 through August 10, 2020 (Appellant Testimony).
12. The Appellant worked at a school mentoring foreign students and was given subsidized housing in lieu of salary. The Appellant's monthly rent, including utilities, was \$100. The Appellant's other living expenses included: telephone-\$50-\$60; food -\$200; and private loan payments of \$600 (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

The Appellant had health insurance for the period of September through December but was uninsured for the period of January through August in tax year 2020. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$43,614 could afford to pay \$271 per month for health insurance. In accordance with Table 4, the Appellant, age 27 living in Suffolk County, could have purchased private insurance for \$269 per month for a plan (Schedule HC for 2020). Private insurance was affordable for the Appellant in 2020.

The Appellant was not financially eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$43,614 was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020.

The Appellant testified that they lost their MassHealth for the period beginning January 2020 because they were employed and no longer financially eligible. The Appellant reports that they were offered a health insurance plan by MassHealth at a cost of \$202 per month. The Appellant declined the coverage stating it was not affordable. The Appellant was employed part time by two employers for the period of January through March in tax year 2020. Because the Appellant was living in a subsidized living arrangement, the cost of rent and utilities was only \$100 monthly. The Appellant had additional expenses for telephone, food, and private loans. Given the Appellant's income and the fact that insurance was available to the Appellant from MassHealth and the private market at a cost below the \$271 deemed affordable to the Appellant under Table 3 of Schedule HC for 2020, the Appellant has failed to demonstrate that the cost of purchasing health insurance would have caused the Appellant to experience a substantial financial hardship for the period of January through March, 2020. The Appellant is subject to a three-month penalty for this period of time.

The Appellant unfortunately contracted Covid-19 in early April 2020 and remained unemployed for the period of April through August when the Appellant was able to secure full time employment. The Appellant enrolled in employer sponsored health insurance in September 2020 as soon as they were eligible. The Appellant is not subject to a tax penalty for the three-month grace period of June through August. Given the Appellant's lack of employment, the Appellant should not be subject to a tax penalty for the months of April and May 2020 because purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08.

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

#### **PENALTY ASSESSED**

Number of Months Appealed:   5   Number of Months Assessed:   3  

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-726

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 12, 2021

**Decision Date:** November 17, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated April 20, 2021.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 60 in February 2020, filed their 2020 Federal Income Tax return as a Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$64,154 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April, 2021 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an annual adjusted gross income of \$64,154 could afford to pay \$406 per month for health insurance. In accordance with Table 4, the Appellant, age 60, living in Middlesex County, could have purchased private insurance for \$1,024 per month for a family plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant had no access to employer sponsored health insurance in 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2 and Appellant Testimony).
9. The Appellant testified that they tried to get health insurance but it was too expensive. The Appellant said that they did apply for MassHealth but was denied. The Appellant's credible testimony is supported by a copy of a MassHealth denial letter dated September 15, 2020 as well as a Health Connector notice dated September 15, 2020 stating that the Appellant was not eligible for healthcare subsidies (Exhibit 4 and Appellant Testimony).
10. In tax year 2020 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2020 tax return as a Head of Household with one dependent claimed. The Appellant did not have health insurance for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an adjusted gross income of \$64,154 could afford to pay \$406 per month for health insurance. In accordance with Table 4, the Appellant, age 60 living in Middlesex County, could have purchased private insurance for \$1,024 per month for a family plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored insurance in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$64,154 was greater than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020.

The Appellant had no affordable health insurance available to them in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2020.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-727

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 12, 2021

**Decision Date:** November 17, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant and their Spouse appeared at the hearing, which was held by telephone, on November 12, 2021. The couple's accountant also attended the hearing. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the parties. The hearing record consists of the Appellant's testimony, the Spouse's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated April 20, 2021.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant and their Spouse, both age 60 in May 2020, filed their 2020 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Hampden County, MA in 2020 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2020 was \$74,907 (Exhibit 2).
4. The Appellant Spouse had health insurance and has not been assessed a tax penalty (Exhibit 2).
5. The Appellant did not have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) requirements for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).



6. The Appellants filed an appeal of the assessment in April, 2021 (Exhibits 3, 4).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$74,907 could afford to pay \$499 per month for health insurance. In accordance with Table 4, the Appellants, age 60, living in Hampden County, could have purchased private insurance for \$744 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellants in tax year 2020.
9. The Appellant testified that they worked for the same company for forty-two years. The company closed in February 2020 and the employees were told they would continue to have health insurance for a couple of months. The Appellant said that they later learned that the owner of the company stopped paying the insurance premiums in December 2019 and the Appellant was without health insurance beginning in January 2020 despite having a payroll deduction for the monthly premium. The company was purchased in June but the new owners did not offer insurance. The Appellant received unemployment for several months. The Appellant explained that they need health insurance for prescribed medication so in March 2020 they purchased a plan that became effective in June and did not find out until they filed taxes that the plan did not meet MCC requirements. The Appellant's credible testimony is supported by documentation verifying that they purchased and Evolve health insurance policy effective June 2020 (Exhibit 4 and Appellant Testimony).
10. The Appellant Spouse testified that they do not understand why Massachusetts allows insurance policies to be sold in Massachusetts if the policies do not meet MCC standards. The Spouse testified that they were not told by the insurance agent that the plan they purchased was not adequate (Spouse Testimony).
11. The Appellant had no access to employer sponsored health insurance in 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellants' income was greater than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2 and Appellant Testimony).
12. In tax year 2020 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 3, 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

The Appellants filed their 2020 tax return as a married couple with no dependents claimed. The Appellant Spouse had health insurance in 2020 and is not subject to a tax penalty. The Appellant did not have health insurance that met Massachusetts MCC requirements for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellants filing the Federal tax return as a married couple with no dependent claimed, with an adjusted gross income of \$74,907 could afford to pay \$499 per month for health insurance. In accordance with Table 4, the Appellants, age 60 living in Hampden County, could have purchased private insurance for \$774 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellants in 2020.

The Appellant did not have access to employer sponsored insurance in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellants’ income of \$74,907 was greater than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020.

The Appellant had no affordable health insurance available to them in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2020.

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

**PENALTY ASSESSED**

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

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

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-736

**Appeal Decision** Appeal Approved

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

**Hearing Date:** November 2, 2021

**Decision Date:** November 11, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 2, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated October 15, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single. He lives in Hamden County, Massachusetts.
2. Appellant worked in a food business. The company he worked for did not offer health insurance in 2020. Appellant filed for health insurance with the Health Connector but was not able to complete the forms due to the pandemic.
3. Appellant does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,105.00, consisting of rent \$950.00, heat & light \$445.00, cell phone \$180.00, car insurance \$400.00, car gas \$400.00, food \$500.00, clothing \$80.00, toiletries \$150.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$34,164.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 37 year old single person was \$265.00. The tables reflect that Appellant could afford \$132.45. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$34,164.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$142.35 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$265.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant worked in a food business. The company he worked for did not offer health insurance in 2020. Appellant tried to apply with the Health Connector but filled out the forms incorrectly due to the pandemic.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-738

**Appeal Decision** Appeal Approved

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

**Hearing Date:** November 2, 2021

**Decision Date:** November 11, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 2, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated October 15, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, Dated May 2, 2021



## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-nine years old and is single. He lives in Bristol County, Massachusetts.
2. Appellant works in a real estate business for himself. Appellant has his children living with him and pays for their expenses.
3. Appellant does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$2,880.00, consisting of heat & light \$200.00, home insurance \$100.00, tax \$375.00, water \$100.00, internet and cable \$50.00, cell phone \$350.00, car insurance \$55.00, car gas \$200.00, food \$1,000.00, clothing \$100.00, credit card \$300.00 toiletries \$50.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities" and "Other. During 2020 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 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$58,104.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Bristol County for a 39 year old single person was \$298.00. The tables reflect that Appellant could afford \$387.36. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities” and “Other. During 2020 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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$58,104.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$387.36 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$298.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant stated that two of his children lived with him and increased his costs.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY ALLOWED**, and the 2020 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   8  

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-739

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 2, 2021

**Decision Date:** November 11, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 11, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 15, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 7, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. She lives in Worcester County.
2. Appellant works in the software industry.
3. Appellant had health insurance through her company from Blue Cross Blue Shield of North Carolina. Appellant did not find out that this Health plan did not provide maternity benefits to dependent children until 2020. Appellant does not have any children and did not have children in 2020. Appellant had the same situation for tax year 2019 but her company could not fix the problem until the tax year 2021. Appellant's health coverage is conformable to the requirements of the Commonwealth of Massachusetts in every other aspect of its coverage.
4. Appellant does have health insurance in 2021.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 " During 2020 you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant had health insurance through her company from Blue Cross Blue Shield of North Carolina. Appellant did not find out that this Health plan did not provide maternity benefits to dependent children until 2020. Appellant does not have any children and did not have children in 2020. Appellant had the same situation for tax year 2019 but her company could not fix the problem until the tax year 2021.

Appellant's health coverage is conformable to the requirements of the Commonwealth of Massachusetts in every other aspect of its coverage.

The Appellant did submit a Statement of Grounds for Appeal-2020 " During 2020 you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements"

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

On these facts, I find that Appellant has shown that she had health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-740

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 2, 2021

**Decision Date:** November 12, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 2, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 15, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 9, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**



The record shows, and I so find:

1. The appellant is thirty-four years old and is married. He lives in Plymouth County, Massachusetts. Appellant works as an operations manager.
2. Appellant was laid off from his job in 2020 due to Covid 19. Appellant's wife was unemployed in 2020. Appellants suffered economic hardship in 2020 and received a eviction notice in 2020 but were able to save their tenancy.
3. Appellants children do have health insurance in 2021 and his wife is getting health insurance.
4. The Appellant's monthly expenses totaled \$4,063.00, consisting of rent \$1,743.00, heat & light \$45.00, internet & cable \$108.00, cell phone \$100.00, car payment \$580.00 car insurance \$150.00. car gas \$100.00, food \$600.00, credit card \$487.000, clothing \$50.00, toiletries \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020, you were homeless, more than 20 days arrears in rent or mortgage payments, or received an eviction or foreclosure notice" and "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear their appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$52,2610.00 was less than \$77,250.00. The monthly premium for health insurance available on the private market in Plymouth County for a 39 year old married with two children person was \$736.00. The tables reflect that Appellant could afford \$213.39 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 was laid off from his job in 2020 due to Covid 19. Appellant’s wife was unemployed in 2020. Appellants suffered economic hardship in 2020 and received an eviction notice in 2020 but were able to save their tenancy.

The Appellant did submit a Statement of Grounds for Appeal-2020 under “During 2020, you were homeless, more than 20 days arrears in rent or mortgage payments, or received an eviction or foreclosure notice” and “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear their appeal under both these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$38,625.00 for a married person with two children . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$52,261.00 in 2020, and Appellant’s filing status was married with two children. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$213.39 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets,

*supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$736.00 monthly for coverage. *Id.* at Table 4.

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

Appellant’s husband was laid off in 2020 and they received an eviction notice in 2020

Appellant is deemed to afford \$213.39 for health insurance coverage because of their income. Private insurance in the market place was \$736.00 per month, which is more than they could afford. On these facts, I find that Appellant has shown that they were precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_24\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-751

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 4, 2021

**Decision Date:** November 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 4, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated October 15, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated May 11, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. She lives in Plymouth County, Massachusetts. Appellant works in the warehouse office worker business.
2. Appellant moved to Massachusetts at the end of February 2020. Appellant did not know that there was a penalty for not having insurance and did not have a job. Appellant received a job in July 2020, but it was through an agency, which did not offer health insurance.
3. Appellant just recently does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$1,577.00, consisting of rent \$300.00, heat & light \$100.00, car \$407.00, car insurance \$160.00, car gas \$60.00, food \$160.00, credit card \$250.00, clothing \$100.00, toiletries \$40.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstances, such as applying the affordability tables in Schedule HC to you is inequitable but should also have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of 21,292.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Plymouth County for a 30 year old single person was \$269.00. The tables reflect that Appellant could afford \$51.45 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 moved to Massachusetts at the end of February 2020. Appellant did not know that there was a penalty for not having insurance and did not have a job. Appellant received a job in July 2020, but it was through an agency, which did not offer health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2020 “ Other. During 2020 other circumstances, such as applying the affordability tables in Schedule HC to you is inequitable but should also have appealed under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under both these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$21,292.00 in 2020, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$51.45 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 269.00 monthly for coverage. *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his

circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

Appellant is deemed to afford \$51.45 for health insurance coverage because of her income. Private insurance in the market place was \$269.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-752

**Appeal Decision** Appeal Approved

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

**Hearing Date:** November 4, 2021

**Decision Date:** November 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 4, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated October 15, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, Dated May 10, 2021



## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-four years old and is single. He lives in Hamden County, Massachusetts.
2. Appellant works as a mechanic.
3. Appellant stated that he just could not afford health insurance in 2020 and had not had health insurance for a few years.
4. Appellant just does have health insurance in 2021.
5. The Appellant's monthly expenses totaled \$2,314.00, consisting of rent \$800.00 , cell phone \$150.00,car \$598.00, car insurance \$146.00. car gas \$120.00, food \$400.00, credit card \$100.00 .
6. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities inequitable."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
8. 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 \$42,333.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 33 year old single person was \$258.00. The tables reflect that Appellant could afford \$262.81. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant stated that he just could not afford health insurance in 2020 and had not had health insurance for a few years.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,373.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$42,333.00 in 2020, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$262.81 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$258.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant stated that he just could not afford health insurance in 2020 and had not had health insurance for a few years.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is partially exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY ALLOWED**, and the 2020 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-759

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 8, 2021

**Decision Date:** November 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 8, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 54-years-old, is single, and does not have children. She resided in Plymouth County, MA in 2020. She did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance in 2017. She has not been subject to a penalty for failure to obtain health insurance for any year since then. (Testimony)
3. The appellant left her job as a hotel manager towards the end of 2017 to manage the affairs of her father's estate who died at the end of December. She had to absorb several costs personally including funeral expenses. The appellant's mother died in December, 2019, and she was personally responsible for those funeral expenses as well. (Testimony)
4. The appellant began to work as a food safety inspector in 2018. She also ran an antique store for several years. In March, 2020, she had to close her store and stop her food inspection work due to

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

the pandemic. She received unemployment insurance benefits from April through the rest of the year. (Testimony, Ex. 1)

5. The appellant did not investigate health insurance options for 2020. She has been enrolled in insurance through MassHealth since April, 2021. (Testimony)
6. The appellant reported an adjusted gross income of \$30,908.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$2852.00 for her mortgage which included real estate taxes and homeowner's insurance (\$1632.00); heat (\$49.00); electricity (\$182.00); water and sewer service (\$17.00); trash service (\$8.00); cable and internet service (\$260.00); cell phone (\$129.00); automobile insurance (\$150.00); food (\$350.00) and gasoline (\$75.00). In addition, she paid approximately \$133.00/month to the funeral home for unpaid expenses from her mother and father's funerals and \$25.00/month under her contract with Comcast for her business. (Testimony)

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2020, but did not specify a ground for the appeal. She also submitted a letter (Ex. 1) with her statement in which she stated in part that due to Covid, she was forced to close her antique store and was unable to work in her job as a food safety consultant.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that the last time she had health insurance prior to 2020 was in 2017. She testified that she has not been subject to a penalty for any year since then for failure to obtain insurance. She testified that she did not investigate insurance options for 2020. She testified that, due to the pandemic, she was forced to close her antique store in March, 2020, and was unable to continue working as a food safety consultant. She testified that she received unemployment insurance benefits from April through the remainder of the year. Finally, she testified that she has been enrolled in insurance through MassHealth since April, 2021.

The evidence provided by the appellant established that her income for 2020, \$30,908.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$24,981.00 and \$31,225.00 is deemed to be able to afford a monthly premium of \$108.18 (4.20% of \$30,908.00/12). Table 4 of the Premium Schedule indicates that a 53-year-old individual (the age of the appellant in 2020) in Plymouth County (where the appellant resided in 2020) could have purchased private health insurance for \$420.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2020.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$108.18 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is 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 2020, she incurred basic monthly expenses of approximately \$3010.00, including the unpaid funeral home expenses and her Comcast contract. Those expenses were more than her regular monthly pre-tax income of approximately \$2575.00 thereby making a private health insurance premium of \$108.18/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).<sup>2</sup>

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

#### **PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

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

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<sup>2</sup> It is noted that the appellant has been enrolled in health insurance with MassHealth since April, 2021, thereby demonstrating that the mandate to purchase insurance has not been lost on her.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-761

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 8, 2021

**Decision Date:** November 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 8, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 38-years-old, is single, and does not have children. He resided in Middlesex County, MA in 2020. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance in 2019 through the Health Connector. (Testimony)
3. The appellant was working as a ride share driver at the beginning of 2020. When the pandemic forced a statewide shutdown in March, 2020, he could not continue driving. He started again approximately five months later, but on a reduced basis due to very low demand. He received unemployment benefits for most of the year. (Testimony)
4. The appellant is originally from Morocco and most of his immediate family still lives there including his mother, two sisters and a brother. The circumstances during the pandemic in his native country

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.



were far worse than in the U.S. and there was no government assistance for people who had lost their jobs or were unable to work. The appellant felt compelled to provide as much financial help as he could and sent approximately \$150.00-\$170.00/month to his family members. (Testimony, Ex. 1)

5. The appellant did not enroll in health insurance for 2021, but plans to do so for 2022. (Testimony)
6. The appellant reported an adjusted gross income of \$26,557.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$1965.00 for rent which included heat and utilities (\$600.00); cable and internet service (\$30.00); cell phone (\$60.00); automobile payment (\$270.00); automobile insurance (\$160.00); food (\$600.00) and gasoline (\$245.00).<sup>2</sup> (Testimony)

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. He also submitted a letter with his statement in which he stated in part that he could not afford health insurance in 2020 because the money he would have spent on insurance was sent to support his family members. He further stated that this was the first year he did not have insurance since coming to the U.S.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that the last time he had health insurance prior to 2020 was in 2019 through Health Connector. He testified that he was forced to stop working as a ride share driver during the pandemic shutdown and did not resume his hours for another five months, on a greatly reduced basis. He testified that his immediate family members who live in Morocco did not have access to any government assistance during the

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<sup>2</sup> The appellant indicated that when he was working as a driver, he spent approximately \$15.00/day on gasoline. Since he was out of work for approximately five months due to the pandemic, his gas costs were calculated for the seven months of 2020 that he did work and then averaged over twelve months.

pandemic, and he felt compelled to provide financial support to them. Finally, he testified that he did not enroll in insurance for 2021, but was planning to do so for 2022.

The evidence provided by the appellant established that his income for 2020, \$26,557.00, was less than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$24,981.00 and \$31,225.00 is deemed to be able to afford a monthly premium of \$92.95 (4.20% of \$26,557.00/12). Table 4 of the Premium Schedule indicates that a 37-year-old individual (the age of the appellant in 2020) in Middlesex County (where the appellant resided in 2020) could have purchased private health insurance for \$298.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2020.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$92.95 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2020, he incurred basic monthly expenses of approximately \$2125.00, including the amount he sent to his family in Morocco. Those expenses were barely less than his regular monthly pre-tax income of approximately \$2213.00 thereby making a private health insurance premium of \$92.95/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant is advised that the Open Enrollment Period for health insurance for 2022 runs from November 1, 2021 through January 23, 2022. He is urged to investigate his options for health insurance through the Health Connector at [mahealthconnector.org](https://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-763

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 8, 2021

**Decision Date:** November 27, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on November 8, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 52-years-old, is single, and has three children over the age of eighteen. In 2020, he resided in Essex County, MA. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance in or around 2007. Most recently, he paid a penalty for not obtaining health insurance for the 2019 tax year. (Testimony)
3. The appellant has been working for the same employer since 2018. The employer does not offer health insurance. (Testimony)
4. The appellant believes he investigated health insurance options for 2020 through the Health Connector and was advised that he did not qualify for subsidized insurance. He did not enroll in health insurance for 2021, but is planning to do so for 2022. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant lived in a rental property from January through September, 2020, and then purchased a home where he lived from October through December, 2020. He saved as much money as possible in order to make the purchase and does not believe that he could have done so if he also had a monthly health insurance premium to pay. (Testimony)
6. During 2020, two of the appellant's children lived with him and he covered all food costs. (Testimony)
7. The appellant reported an adjusted gross income of \$87,202.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. From January through September, 2020, the appellant had regular monthly expenses of approximately \$4908.00 for rent (\$2100.00); heat (\$400.00); electricity (\$200.00); cable and internet package (\$260.00); cell phone (\$285.00); automobile insurance for two vehicles (\$183.00); gasoline for two vehicles (\$480.00) and food (\$1000.00). From October through December, 2020, he had regular monthly expenses of approximately \$5472.00 for his mortgage which included real estate taxes (\$2652.00); homeowner's insurance (\$125.00); water and sewer services (\$67.00); heat (\$340.00); electricity (\$80.00) and the same charges for cable and internet package, cell phone, automobile insurance, gasoline and food. He incurred approximately \$5000.00 in remodeling costs including drywall and painting. (Testimony)

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that he does not believe that he needs health insurance because if he goes to the emergency room, he will either pay out of pocket or the cost will be covered by worker's compensation if he sustains a work-related injury. He further stated that his automobile insurance policy will cover bodily injuries whether or not an accident is his fault. He stated that he would not have been able to buy a home if he was responsible for a health insurance premium. Finally, he stated that he does not believe the state should dictate what it deems he can afford for insurance.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he has not had health insurance since approximately 2007 and most recently paid a penalty for not obtaining insurance for the 2019 tax year. He testified that he was employed in 2020, but his employer did not offer health insurance. He testified that he investigated insurance options through the Connector and was advised that he did not qualify for subsidized insurance. He testified that he saved as much money as possible in order to purchase a home and would not have been able to do so had he also had to cover a monthly insurance premium. He testified that 2020 was full of hardship due to Covid as a result of which many were experiencing lenient measures in order to recover. He testified that the Connector should take a similar approach with assessment of the penalty. Finally, he testified that he plans to enroll in insurance for 2022.

The evidence provided by the appellant established that his income for 2020, \$87,202.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$581.35 (8.00% of \$87,202.00/12). Table 4 of the Premium Schedule indicates that a 51-year-old individual (the age of the appellant in 2020) in Essex County (where the appellant resided in 2020) could have purchased private health insurance for \$420.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that from January through September, 2020, he incurred basic monthly expenses of approximately \$4908.00, and from October through December, he incurred basic monthly expenses of approximately \$5472.00. Those expenses were less than his regular monthly pre-tax income of approximately \$7267.00, thereby making a private health insurance premium of \$420.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2359.00/month for the first nine months and \$1795.00 for the last three months of the year is not a panacea, it does not appear on its face that the payment of \$420.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that he saved as much money as possible throughout the year in order to finance the purchase of a house, which a monthly insurance premium would have made less feasible. He further testified that he laid out approximately \$5000.00 in remodeling costs which would not have been possible had he been making monthly insurance payments. It is noted that the appellant has not demonstrated any regard for the insurance mandate since its inception, and underscored this attitude with comments in his appeal to the effect that health insurance is not necessary based on his ability to pay out of pocket or cover expenses through worker's compensation or auto insurance. However, he appeared to strike a much more contrite tone during the hearing and requested forbearance based on the toll that the pandemic exacted as well as his intention to obtain insurance for 2022.

Hence, while the foregoing numbers do not demonstrate a level of financial distress sufficient to qualify as a hardship, the appellant will be granted the benefit of the doubt regarding his change of heart about the necessity of insurance.

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

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

The appellant is advised that the Open Enrollment Period for health insurance for 2022 runs from November 1, 2021 through January 23, 2022. He is urged to investigate his options for health insurance through the Health Connector at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-796

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 16, 2021

**Decision Date:** November 21, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated October 22, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated May 19, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:



1. The appellant is fifty-two years old and is married. She lives in Worcester County, Massachusetts.
2. Appellant's husband is a seasonal landscape employee. The Appellant has been unemployed since 2015 due to an automobile accident. Appellants received shut-off notices from National Grid and the town for water and other dunning notices in 2020
3. Appellants do not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,228.00, consisting of mortgage \$1,583.00, heat & light \$200.00, internet & cable \$75.00, cell phone \$75.00, car insurance \$200.00. car gas \$120.00, food \$500.00, clothing \$150.00, water bill \$100.00, propane gas \$150.00 toiletries \$75.00. Appellants also owe credit card bills of over \$5,000.00 and medical bills of over \$5,000.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities." And should have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear their appeal under both these grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$48,893.00 was less than \$50,730.00. The monthly premium for health insurance available on the private market in Worcester County for a 55 year old married man was \$864.00. The tables reflect that Appellants could afford \$301.50 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant's husband is a seasonal landscape employee. The Appellant has been unemployed since 2015 due to an automobile accident. Appellants received shut-off notices from National Grid and the town for water and other dunning notices in 2020

The Appellant did submit a Statement of Grounds for Appeal-2020 under "During 2020, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities." And should have appealed under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear their appeal under both these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$25,365.00 for a married person with two children. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2020 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of 48,893.00 in 2020, and Appellant's filing status was married EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$301.50 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$864.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$301.50 for health insurance coverage because of their income. Private insurance in the market place was \$864.00 per month, which is more than they could afford. On these facts, I find that Appellant has shown that they were precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed:   24   Number of Months Assessed:   0  

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit