

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-897

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 17, 2023

**Decision Date:** November 27, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Health Insurance Processing Center Letter to Appellant (dated 10/13/22);
5. Health Insurance Processing Center Letter to Appellant (dated 7/30/22); and
6. Health Insurance Processing Letter to Appellant (dated 4/8/22).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$35,424. Exhibit 1.
3. The Appellant was 25 years old at the beginning of 2022 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$35,424) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00% of his income -- or \$148 per month -- for health insurance coverage in 2022. (The calculation is 5.00% multiplied by \$35,424 AGI = \$1,771.20 per year divided by 12 months = \$147.60 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$277 per month in 2022.
7. In support of his appeal the Appellant presented health insurance eligibility letters that he received for 2022 concerning MassHealth and Health Connector. See Exhibits 4, 5 and 6. The letters attest that the Appellant was making efforts to obtain health insurance in 2022, but that he never obtained a final eligibility determination that enabled the Appellant to enroll in government-subsidized health insurance despite his low income, as set forth by the DOR in Exhibit 1. See Findings of Fact, No. 2, above. See also Findings of Fact, Nos. 4 and 5, above.
8. Prior to 2022 the Appellant had been insured under his Mother's MassHealth benefits. In 2023 the Appellant continued his efforts to obtain health insurance coverage. Testimony.

9. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum

creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

I will rest my decision in this appeal on the objective standards set forth in DOR Table 3 and Table 4 so that it is not necessary to untangle the insurance eligibility letters that the Appellant received in 2022. See Exhibits 4, 5 and 6, above. Under DOR Table 3 the Appellant could afford to pay \$148 per month for health insurance. DOR Table 4 demonstrates that the Appellant would have to pay \$277 per month for health insurance at his age. Under the objective standards established by DOR Tables 3 and 4, in other words, the Appellant could not afford health insurance in 2022. See Findings of Fact, Nos. 5 and 6, above. This conclusion is reinforced by DOR Table 2, which indicates that the Appellant would be eligible for government-subsidized health insurance since his income was less than 300% of the federal poverty level. See Findings of Fact, No. 4, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**RECOMMENDATION.** The Appellant should be alert that the Health Connector’s open enrollment period – when the Appellant can select and enroll in a Health Connector

insurance policy for 2024 – is drawing to a close. See the Health Connector website at [www.mahealthconnector.org](http://www.mahealthconnector.org) or call customer service at 1-877-623-6765. You can also get help from Health Care for All, a private, non-profit organization, at its website [www.hcfama.org](http://www.hcfama.org) or on the free hot line at 1-800-272-4232.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



## Massachusetts Health Connector Appeals Unit

### Tax Penalty Appeal Decision—Docket No. PA22-937

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 14, 2023

**Decision Date:** November 15, 2023

#### **AUTHORITY**

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

#### **JURISDICTION**

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

#### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022; and
3. Health Connector's Notice of Hearing (2 pages).

#### **FINDINGS OF FACT**

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

1. The Appellant, who is Russian speaking, was a part-time resident of Massachusetts in 2022. The Appellant arrived in Massachusetts on February 4, 2022, and she

remained in Massachusetts for the remainder of the year (end 12/21/22). Because the Appellant did not have health insurance coverage in Massachusetts for 2022 the state Department of Revenue (DOR) assessed an 8 month for 2022. The Appellant does not dispute these facts, which are taken from Exhibit 1, but she asserts a hardship appeal from the penalty.

2. I find that the Appellant could not afford health insurance in 2022. This finding is based on the objective affordability standards that are set forth in DOR Table 3 and DOR Table 4, as set forth in more detail below.
3. Under DOR Table 3 the Appellant could afford to pay \$176 per month for health insurance based on her income (\$26,469 federal adjusted gross income (AGI)). Under DOR Table 4 (Region 2) the Appellant would have to pay \$93 per month to obtain individual health insurance coverage at her age (62 years) and location (Middlesex County). See Exhibit 1. (The calculation is 4.20% multiplied by \$26,469 AGI = \$1,111.69 per year divided by 12 months = \$92.64 per month.)
4. The Appellant's income (\$26,469 AGI) is less than 300% of the federal poverty income (\$38,640 per year for a one-person household). On this basis I infer that the Appellant would qualify for a government-subsidized health insurance. See DOR Table 2.
5. In early 2023 the Appellant obtained health insurance coverage through the Health Connector for which she receives a substantial government subsidy to pay the monthly insurance premium. I base this finding on the Appellant's testimony at the appeal hearing before me. (There is no independent verification from the Health Connector for 2023 in the hearing record.)
6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by



the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 8 month tax penalty because the Appellant did not have health insurance coverage for the part-year that she resided in Massachusetts in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10,

applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

After the Appellant in this case became a part-year Massachusetts resident in early 2022 she was subject to the legal obligation to “obtain and maintain” health insurance, as described above. However, applying the affordability standards set forth in DOR Tables 3 and 4 to the Appellant’s federal adjusted gross income (\$26,469) demonstrates that health insurance was not affordable, as specified in Mass. General Laws, c. 111M, sec. 2(a), above. In this context I take into account that in early 2023 the Appellant did obtain government-subsidized health insurance through the Health Connector.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**RECOMMENDATION.** I want to add that when the Appellant receives a copy of this Decision in the mail she should contact the Health Connector to update her application for health insurance coverage that begins on January 1, 2004. This is what the Health Connector calls its “open enrollment” period (November 1 – January 23, but in order to be insured starting in January you must enroll in a health insurance plan and pay the first month’s premium on or before December 23).

You can reach Customer Service at the Health Connector by calling 1-877-623-6765. Or you can use the website at [www.mahealthconnector.org](http://www.mahealthconnector.org).

**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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

**Cc: Massachusetts Health Connector Appeals Unit**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 17-857

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

**Hearing Issue:** Appeal of the 2017 Tax Year Penalty

**Hearing Date:** November 15, 2023

**Decision Date:** November 20, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on November 15, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Written statement with 2018 tax return (11 pages)
- Exhibit 4: Request to vacation (12/16/2021) (3 pages)
- Exhibit 5: Hearing notice (3 pages)
- Exhibit 6: Email exchange with DOR (August 2021) (2 pages)
- Exhibit 7: Hearing notice (10/26/2021) (3 pages)
- Exhibit 8: Hearing notice (6/12/2023) (3 pages)
- Exhibit 9: Attendance sheet (11/22/2021) (1 page)

### **FINDINGS OF FACT**

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

1. Appellant is appealing a penalty assessed against him for not having insurance in 2017.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2017 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

2. Appellant was 61 at the end of 2017.
3. Appellant lived in Middlesex County in 2017. Exhibit 2.
4. Appellant filed his 2017 taxes as single with no dependents. Exhibit 2.
5. During 2017, Appellant had shared custody of a minor child.
6. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2017 was \$49,337. Exhibit 2.
7. Appellant reported in the Schedule HC that he filed with his 2017 state income taxes, and confirmed at the hearing, that he did not have health insurance meeting minimum creditable coverage standards at any point in 2017. Exhibit 2.
8. Appellant was working in 2017, but the health insurance offered by his employer had a high deductible and copays. As a result, Appellant considered it unaffordable. See Exhibit 3.
9. Appellant went on Medicare when he turned 65 in 2021. As of the date of the hearing, he was covered in insurance.

In addition to the foregoing, I take administrative notice of the 2017 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2017-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2017 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2017 Schedule HC instructions at pages HC 7-9

During 2017, Appellant worked at a job that offered him insurance that was not affordable because of the premium, high deductible, and high copays. Thus, he was unable to obtain affordable employment-based insurance.

Further, Appellant was not able to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and must meet the eligibility requirements to receive advance premium tax credits, which are federal insurance subsidies offered under the Affordable Care Act (ACA). See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2017, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$35,640. (I obtain the figure of \$35,640 from Table 2 to the instructions for the 2017 Schedule HC.) Appellant’s

annual income during 2017 was greater than that amount and therefore he was not eligible for Connector Care.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$49,337 was deemed able to afford 8.16 percent of income on insurance. (I obtain that figure from Table 3 of the 2017 instructions for the Schedule HC.) In this case, that amounts to \$4,025 annually or \$335 a month. During 2017, a person like Appellant who lived in Middlesex County and was 61 years of age would have had to pay a premium of at least \$374 a month in order to obtain health insurance that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2017 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In short, Appellant was unable to obtain affordable health insurance either through employment, through government programs, or through purchase on the non-group market in 2017. Because Appellant could not have obtained affordable insurance, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I conclude that he should not have been assessed a penalty for not having insurance in that year. Therefore, I am allowing the appeal and waiving the penalty assessed against him in its entirety.

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:      Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-975

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

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

**Hearing Date:** November 27, 2023

**Decision Date:** November 30, 2023

**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 27, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2022 Signed by Appellant on 4/11/2023 (2 PP).
- Exhibit 2(a): Appellant's Correspondence (4/10/23), Copies of Expenses, Payments (8 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/24/2023 (2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 24 in 2022, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2022 was \$54,940. (Exhibit 1).
3. The Appellant testified that his biweekly net pay was approximately \$3,200 a month. (Appellant's Testimony).
4. The Appellant was laid off from his first employer and then obtained new full-time employment. (Appellant's Testimony).



5. The Appellant was not offered Employer Sponsored Insurance (“ESI”) by either Employer because he had not been employed long enough in his first position, and his new employer had a small number of employees and did not offer ESI. (Appellant’s Testimony, Ex. 6).
6. The Appellant investigated Connectorcare but could not afford the cost of \$350-\$450 per month. (Appellant’s Testimony).
7. According to Table 3 Appellant could have afforded \$366.27 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant’s income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant’s Testimony).
9. The Appellant’s monthly living expenses in 2022 included: Rent \$1,800, Internet \$40, Telephone \$90, Food \$600, Car Payment \$342, Car Insurance \$352, Gas/Transportation \$240, Tools for Employment \$340, totaling \$3,804. (Appellant’s Testimony)
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2022 that the individual mandate did not apply to him because the expense of purchasing health insurance during 2022 would have caused them a deprivation of food and other necessities and that applying the HC affordability tables to him would have been inequitable. (Exhibit 2 and Appellants’ Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$54,490 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$366.27 per month. According to Table 4, Appellant, age and living 24 living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant credibly testified that he worked in two full time positions, and he was not eligible for ESI from either employer. The Appellant had not been employed long enough with the first employer prior to be laid off for Eligibility. The second employer did not offer ESI. (Appellant's Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to affordable ESI during the months he was being penalized. (Appellant's Testimony).

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

The Appellant's adjusted gross income was \$54,940. His net take home pay was approximately \$3,200. His monthly living expenses totaled \$3,804 per month. (Appellant's Testimony, see Pars. 3 and 9 above). Accordingly, I conclude that purchasing health insurance at the cost of \$366.27 in addition to his basic necessary living expenses during 2022, would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) ( e ) & (3). Thus, the Appellant's assessed tax penalty of twelve (12) months is waived entirely for this reason also.

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

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

**PENALTY ASSESSED**

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

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

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

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

Cc:    Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-976

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

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

**Hearing Date:** November 27, 2023

**Decision Date:** November 30, 2023

**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 27, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2022 Signed by Appellant on 4/6/2023	(2 PP).
Exhibit 2(a):	Note from Medical Provider 12/26/2022	(1 P).
Exhibit 2(b)	Supporting Correspondence from the Appellant dated 12/10/2023	(1 P).
Exhibit 2(c)	Confirmation of Paid Medical Invoice	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/24/2023	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 28 in 2022, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$38,947. (Exhibit 1).
3. The Appellant testified that his biweekly net pay was approximately \$1,400 a pay period.

4. The Appellant testified that in early 2022 he changed jobs thought he was insured by his Employer and that the insurance premiums were being deducted from his pay at approximately \$120 per pay period. (Appellant's Testimony, Exhibits 2(b)).
5. The Appellant testified that did not realize he was uninsured until he went to a medical provider in December 2022. (Appellant's Testimony, Exhibits 2(a), (b)).
6. According to Table 3 Appellant could have afforded \$241.80 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was slightly more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
8. The Appellant's monthly living expenses in 2022 included: Mortgage \$3,200, Car Insurance \$200, Gas/Transportation \$240, Credit Cards \$100 (\$8,000 balance), totaling \$3,740. (Appellant's Testimony).
9. The Appellant had a \$500 out of pocket medical expense. (Appellant's Testimony, Exhibits 2(a), (b)).
10. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2(b) with the appeal and that during 2022 that the individual mandate did not apply to him because the expense of purchasing health insurance during 2022 would have caused him a deprivation of food and other necessities. (Exhibits 2, 2(a)-(c)) and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$38,947 was only slightly more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$241.80 per month. According to Table 4, Appellant, age and living 28 living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that he mistakenly thought he was enrolled in ESI at the cost of approximately \$120 per pay period. (Appellant's Testimony, Exhibits 2(a-c)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did have access to affordable ESI during the months he was being penalized. (Appellant's Testimony, Exhibits 2(a-c)).

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

The Appellant's adjusted gross income was \$38,947. His net take home pay was approximately \$2,800 per month. His monthly living expenses totaled \$3,740 per month. (Appellant's Testimony, see Pars. 3 and 8 above). Accordingly, I conclude that purchasing health insurance at the cost of \$241.80 in addition to his basic monthly necessary living expenses during 2022 would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) (e) & (3). Thus, the Appellant's assessed tax penalty of twelve (12) months is waived entirely for this reason also.

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

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

**PENALTY ASSESSED**

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

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

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

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

Cc:    Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 19-1203

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

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

**Hearing Date:** November 15, 2023

**Decision Date:** November 20, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on November 15, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

### **FINDINGS OF FACT**

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

1. Appellant is appealing a tax penalty assessed against her for not having insurance during 2019.
2. Appellant was 58 at the end of 2019. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.



3. Appellant is a permanent resident of the state of Florida. However, at the start of 2019, she had come to Massachusetts to care for a sick relative. During that time, she stayed with a friend in Barnstable County.
4. Appellant filed her 2019 Massachusetts state taxes as single with no dependents. Exhibit 2.
5. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her Massachusetts income for 2019 was \$27,878. Exhibit 2.
6. Appellant reported in the Schedule HC that she filed with her 2019 state income taxes, and confirmed at the hearing, that she did not have health insurance during the nine months that she lived in Massachusetts. Exhibit 2.
7. Initially, when Appellant came to Massachusetts, she had only intended to stay for a few weeks. However, due to her relative's condition, she extended her stay several times. Eventually, she ended up living in Massachusetts for the first nine months of 2019, finally returning to Florida in September.
8. During her time in Massachusetts, Appellant obtained a part-time seasonal job, which paid her on an hourly basis. This job did not offer her health insurance as a benefit.
9. Appellant never sought health insurance while she was in Massachusetts because she did not expect to be staying here long enough for that to make sense.
10. Appellant was living in Florida and was insured there as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2019-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The individual mandate applies to individuals who are residents of Massachusetts. Appellant is a resident of Florida. However, during the first nine months of 2019, she lived on a temporary basis in Massachusetts. During that time, she earned income in Massachusetts. She filed 2019 income taxes as a part-year resident in Massachusetts. Thus, she was considered subject to the individual mandate for the first nine months of the year, during which she did not have insurance.

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

year. Therefore, she was entitled to a three-month gap without penalty, and so she has been assessed a penalty for only six months.

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 7-9.

During the part of 2019 that she lived in Massachusetts, Appellant worked at a job that did not offer her insurance. Thus, she was unable to obtain affordable employment-based insurance.

Further, Appellant would not have been able to afford to purchase unsubsidized health insurance in the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$27,878 was deemed able to afford 4.2 percent of income on insurance. (I obtain that figure from Table 3 of the 2019 instructions for the Schedule HC.) In this case, that amounts to \$1,170 annually or \$97.50 a month. During 2019, a person like Appellant who lived in Barnstable County and was 58 years of age would have had to pay a premium of at least \$418 a month in order to obtain health insurance that met minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit and must meet the eligibility requirements to receive advance premium tax credits, which are federal insurance subsidies offered under the Affordable Care Act (ACA). These include requirements that the person be a United States citizen or legal permanent resident and that they not have access to affordable insurance through employment or another government program such as Medicare. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2019, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$36,420. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Appellant's annual income during 2019 was lower than that amount and therefore she was income-eligible for Connector Care. Based on her testimony, I conclude that she met the other requirements for Connector Care eligibility.

Appellant never applied for Connector Care however because she considered her stay in Massachusetts to be of too short a duration. She initially intended to live in this Commonwealth for only a few weeks. Her stay was extended several times due to the condition of the sick relative for whom she was caring. Thus, it is understandable that she did not apply for health insurance during her stay in Massachusetts.

Given the foregoing, I am going to exercise my discretion to waive the tax penalty assessed against her for 2019. Therefore, I am allowing the appeal and waiving the penalty assessed against her in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 6

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-853

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 1, 2023

**Decision Date:** November 5, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of 2022 Appeal (1 page);
5. Appellant’s 2022 Experian Statements; and
6. Appellant’s 2021 Penalty Appeal Decision (PA21-1860 (7/20/22)).

## FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2022. The basis for the penalty was that the Appellant was not insured for the months of January through August 2022 (8 months) but was insured for the months of September through December 2022 (4 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant was a well-compensated restaurant server before he was laid off in March 2020 due to the coronavirus pandemic (COVID-19), resulting in the loss of his employer-subsidized health insurance. The Appellant appealed from the DOR penalty assessment for 2021, and a hearing officer waived the entire penalty assessed for 2021 in a written opinion dated July 20, 2022. Exhibit 6 (PA21-1860) and Testimony. See Exhibit 4 (Appellant's "synopsis of reasons" to vacate the 2022 DOR penalty assessment).
3. The Appellant received unemployment insurance benefits that resulted in a substantial reduction in his income after he was laid off. The Appellant used multiple credit cards to cover his living expenses, running up a \$47,762 credit card debt (requiring a \$1,496 monthly minimum payment). Testimony, Exhibit 4, and Exhibit 6. See also Exhibit 5 (Experian statements for 2022).
4. Restaurants were limited to a 25% occupancy/reduced seating capacity when they began to reopen from Covid that limited the Appellant's income when he was able to return to work with reduced hours and no health insurance coverage. Testimony and Exhibit 4.
5. The Appellant returned to work at a regular schedule for a new employer starting in October 2021. The Appellant's new employer offered health insurance as a job benefit but only after a one year waiting period. Testimony, Exhibit 4, and Exhibit 6.

6. The Appellant concluded that other insurance coverage options were more than he could afford after his income was constrained by the coronavirus pandemic. The Appellant would also have to pay a higher premium (\$435 per month) because he was 60 years old. Testimony, Exhibit 1, Exhibit 4, and DOR Table 4 (individual coverage residing in Middlesex County at ages 55+). See also Exhibit 6.
7. The Appellant enrolled in his employer's health insurance plan as soon as it was available to him in September 2022, and he was insured for the remainder of 2022. Testimony, Exhibit 1, and Exhibit 4. See also Exhibit 6.
8. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty because the Appellant did not have health insurance coverage for an eight month period in 2022 (January – August).

See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal in this case is a continuation and resolution of the carefully considered 2021 appeal in docket number PA21-1860 (decided July 20, 2022).

In the appeal decision for 2021 the prior hearing officer noted that the Appellant had returned to work after being laid off due to the coronavirus pandemic (COVID-19) and that the Appellant would be eligible for employer-subsidized health insurance in September 2022 after a one-year wait period imposed by the new employer (or insurer). See Exhibit 6.

In this appeal from the 2022 penalty assessment, the Appellant was still working for the same employer and was waiting for the one year waiting period to expire. As predicted in the 2021 appeal decision, the Appellant enrolled in his employer's health plan in September 2022 when the wait period expired, and he was insured for the remainder of 2022. See, e.g., Exhibits 1 and 4. See also Exhibit 6.

Under these circumstances, including consistency with the facts finding and decision in the 2021 appeal, I vacate the entire penalty assessed by the DOR for 2022.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit





Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-854

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 1, 2023

**Decision Date:** November 7, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 2 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months of January through July (7 months) but was not insured for the months of August through December, 2022 (5 months). Exhibits 1 and 2. Based on Exhibit 1, the Appellant's supporting letter (Exhibit 4), and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 7 months insured = 5 months uninsured minus 3-month administrative grace period = 2 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$45,047. Exhibit 1.
3. The Appellant resided in [name of city or town omitted] in Middlesex County, Massachusetts. More recently, the Appellant returned to live with her parents. Exhibit 1, Exhibit 4, and Testimony.
4. The Appellant's 2022 AGI (\$45,047) was more than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.45 % of her income -- or \$280 per month -- for health insurance coverage in 2022. (The calculation is 7.45% multiplied by \$45,047 AGI = \$3,356.00 per year divided by 12 months = \$279.66 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. The Appellant was insured under her parents' health insurance plan at the beginning of 2022 until she was no longer eligible at her 26<sup>th</sup> birthday in July 2022. Testimony and Exhibit 4. See also Exhibit 1 (insured for months of January – July plus date of birth).
8. The Appellant was not insured for the remainder of 2022 because she could not afford to purchase coverage on her income and because she was not aware that

health insurance coverage was mandatory in Massachusetts. Testimony and Exhibit 4.

9. The Appellant's living expenses include student debt, though she was unable to state how much she owes. The Appellant is a 2019 college graduate who has continued with training and earns \$18.75 per hour. Testimony and Exhibit 4.
10. The Appellant's major expense is a \$4,000 balance for therapy that was not covered by her parents' health insurance plan. She also owes \$200 per month for credit card purchases and \$160 per month for car insurance. The Appellant was up-to-date on rent and utilities before she returned to live with her parents. Testimony.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a two month tax penalty because the Appellant did not have health insurance coverage for the months of August – December 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant was insured in 2022 under her parents' health insurance plan until her coverage as a dependent ended at her 26<sup>th</sup> birthdate in July 2022. See 45 Code Federal Regulations 147.120 (a) (1). The Appellant was not insured for the remainder of 2022 based on her judgment that she could not afford to pay the monthly premium for her own coverage and on her failure to appreciate that health insurance

coverage is mandatory under Massachusetts law. See Mass. Gen. Law, ch. 111, sec. 2 (a) (summarized above).

After considering all the circumstances I will waive the 2 month penalty assessed by the DOR for 2022. The evidence presented lends support to the Appellant's belief that she could not afford the monthly premium: under DOR Tables 3 and 4, the Appellant could afford to pay \$280 per month based on her income for health insurance that would cost \$277 per month – an equivalent amount, especially once the \$4,000 debt is taken into account. See Findings of Fact, Nos. 5, 6, and 10, above.

Hopefully, the Appellant will be able to obtain health insurance through an employer or through the Health Connector. I add that the Health Connector's open enrollment period (and the period for most employers and insurers) begins in November so the Appellant should check the status of health insurance coverage when she receives this decision in the mail. See the Health Connector's website at [www.mahealthconnector.org](http://www.mahealthconnector.org) or call Customer Service at 1-877-MA ENROLL. The Appellant may also contact insurers directly.

**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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

## Massachusetts Health Connector Appeals Unit

### Tax Penalty Appeal Decision—Docket No. PA22-855

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 1, 2023

**Decision Date:** November 7, 2023

#### **AUTHORITY**

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

#### **JURISDICTION**

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

#### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022);
3. Health Connector's Notice of Hearing (2 pages);
4. Tufts Health Plan Membership Card;
5. Care First Blue Choice Membership Card;
6. United Health Plan Membership; and
7. West Virginia Driver's License.



## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. I will address the Appellant's medical insurance coverage in findings of fact below.
2. The Appellant moved from West Virginia to Massachusetts in 2022. The Appellant was insured in West Virginia for three months in 2022 (January, February, and March). I found the Appellant's testimony on this issue credible, though I note that Exhibit 1 (submitted by the DOR) fails to indicate that the Appellant was a part-year resident in Massachusetts for 2022. Testimony, Exhibit 7 (West Virginia driver's license), and Exhibit 5 (Care First Blue Choice Membership Care, effective December 1, 2021).
3. The Appellant was insured in Massachusetts by Tufts Health Plan effective January 1, 2023 (the year after 2022 that is at issue in this appeal), and the Appellant had already renewed her coverage for 2024 by the date of this appeal hearing (November 1, 2023).
4. The Appellant was insured in Massachusetts for at least part of 2022. This finding is supported by the Appellant's testimony and by the United HealthCare Membership Card (Exhibit 6) that bears the name [redacted] of the Appellant's employer in 2022. The employer (or its insurer) imposed a three-month waiting period before the Appellant could enroll in the United HealthCare insurance. Testimony. (I note that the exact dates of the Appellant's 2022 Massachusetts insurance coverage is not altogether clear from the exhibits and the Appellant's testimony, especially since the Appellant changed jobs in 2022.)
5. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$45,291. Exhibit 1.
6. The Appellant was 28 years old at the beginning of 2022 and resided for part of 2022 in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.

7. The Appellant's 2022 AGI (\$45,291) was more than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
8. Based on DOR Table 3 the Appellant could afford to pay 7.60% of her income -- or \$287 per month -- for health insurance coverage in 2022. (The calculation is 7.60 % multiplied by \$45,291 AGI = \$3,442.11 per year divided by 12 months = \$286.84 per month.)
9. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age (under 30 years) and location for \$ 277 per month in 2022.
10. The Appellant sustained moving expenses in 2022 to relocate to Massachusetts, including apartment rental up-front deposits (\$900 per month). The Appellant also owed \$1,000 on credit cards and \$1,000 for out-of-pocket medical expenses.  
Testimony.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at

<http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The starting point for this appeal is to acknowledge that the insurance coverage for 2022 is disputed. The DOR imposed a 12 month penalty assessment on the assumption

that the Appellant did not have health insurance coverage for any month in 2022. The penalty is based on the failure, in Exhibit 1, to inform the DOR that the Appellant was a part-year Massachusetts resident in 2022. The evidence in the hearing record credibly established that the Appellant was insured by a West Virginia insurer for three months at the beginning of 2022 and also that the Appellant had insurance through Massachusetts employer-subsidized insurance for a later part of the year. The exact calculation is unclear: at a minimum the penalty months must be reduced by the three months of out-of-state insurance and the three month Massachusetts administrative grace period.

After considering the circumstances I conclude that the entire 12 month penalty assessed by the DOR for 2022 should be waived. In addition to what has already been said I recognize that the Appellant was covered by three insurance companies (Exhibits 4, 5, and 6) and that the \$10 margin reflected in DOR Tables 3 and 4 between what the Appellant could afford to pay for health insurance (\$287 per month) and what insurance would cost (\$277 per month). See Findings of Fact, Nos. 8 and 9, above. The Appellant sustained moving and other expenses in 2022 that fairly may be taken into account. See Findings of Fact, No. 10, above

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-883

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 8, 2023

**Decision Date:** November 12, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022);
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Appellant’s 2022 Payroll Stubs (2 pages);
6. Appellant’s 2022 IRS Form 1095-C;
7. Appellant's CIGNA Membership Card (2 sides).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant's health insurance coverage for 2022 did not satisfy the Massachusetts Minimum Creditable Coverage ("MCC") standards. Exhibit 1 (DOR). See also Exhibit 2 (pre-printed appeal form: "[Y]ou purchased health insurance that didn't meet minimum creditable coverage standards.")
2. I find, based on the evidence in the hearing record, that the Appellant was enrolled in health insurance coverage through his employer for all 12 months in 2022. See, e.g., Exhibits 2, 4, 5, and 6 and Testimony.
3. The Appellant enrolled in the health insurance plan (named Fringe Benefit Group) offered by his employer in 2022, and he was not informed that the coverage did not satisfy the MCC standards. Exhibit 4 and Testimony. Documentary evidence, including the Appellant's first and last payroll record for 2022 (Exhibit 5), the 2022 IRS Form 1095-C that the Appellant received from his employer (Exhibit 6); and the Insurer's Membership Cards (Exhibit 7) support the Appellant's position that he enrolled in, and paid the premium for, health insurance coverage in 2022. Testimony and Exhibit 4. (I note that the federal government's minimum essential coverage standard is not identical to the Massachusetts MCC standard. The 2022 IRS 1095-C form shows that the Appellant had coverage for the months of January through October but not for November and December 2022. The unexplained year-end lack of coverage would, in any event, be negated by the DOR 3-month administrative grace period.)
4. The Appellant successfully used his medical insurance in 2022 without his doctor raising any question about his health insurance coverage. Exhibit 4 and Testimony.
5. The Appellant learned that his employer's health insurance plan did not meet MCC standards in early 2023 in conjunction with filing his state income tax return for 2022. The Appellant brought the MCC issue to the attention of his employer which switched its health insurance plan to Aetna in mid-2023. Testimony and Exhibit 4.



6. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$62,700. Exhibit 1. The Appellant is divorced and supports a minor child (the child's mother claims the tax credit). Testimony and Exhibit 1.
7. The Appellant was 55 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
8. Based on DOR Table 3 the Appellant could afford to pay 8.00 % of his income -- or \$418 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$62,700 AGI = \$5,016.00 per year divided by 12 months = \$418 per month. Note that I have not sought to adjust the calculation to reflect the Appellant's financial contribution to the support of a minor child that is not reflected on the Appellant's state income tax return.)
9. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age (55+ years old) and location for \$435 per month in 2022.
10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in

effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022 that met the Massachusetts minimum creditable coverage standard ("MCC"). See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 5.01 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case the evidence presented by the Appellant establishes that the Appellant was enrolled in, and paid the premium for, the health insurance plan provided by his employer as a job benefit for all of 2022. The Appellant was not informed that the health insurance plan did not meet the MCC standard when he enrolled in, and used, the coverage for 2022. See Mass. Gen. Laws c. 111M, sec. 2 (b), and 956 Code Mass. Regs. 5.01 and 5.03, above.

The Appellant approached his employer after he learned, when he prepared his state income tax return for 2022, about the MCC problem. To the credit of both the Appellant and his employer, the employer switched its health insurance plan to a new insurer (Aetna). In addition, the objective affordability standards set forth in DOR Tables 3 and 4 show that the Appellant could afford to pay only \$418 per month for health insurance that would cost \$435 per month. See Findings of Fact, Nos. 8 and 9, above. Accordingly, it would offend the affordability principle to impose a penalty on top of the premium that the Appellant has already paid. See Mass. Gen. Laws, ch. 111M, sec. 2 (a), above

Under these circumstances I conclude that it is appropriate to waive the entire 12 month penalty imposed by the DOR for 2022. The Appellant should take care to enroll in insurance coverage for 2024 since the open enrollment period for the Health Connector and for most private insurers takes place in November when the Appellant will receive this decision in the mail.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-895

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 17, 2023

**Decision Date:** November 27, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Appellant’s New Jersey Driver’s License;
6. Wife’s Unite Here Health Membership Card;
7. Wife’s Blue Cross/Blue Shield Membership Card; and
8. Appellant’s New Jersey Driver’s License (duplicate of Exhibit 4).

**FINDINGS OF FACT**

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

1. The Appellant (Husband) appealed from the Department of Revenue's assessment of a 4 month penalty for 2022. The basis for the penalty was that the Husband, who was a part-year resident in Massachusetts in 2022, was not insured in Massachusetts. Testimony and Exhibit 1 (Extract from Husband's 2022 Massachusetts income tax return).
2. The Wife, who resided in New Jersey for all of 2022, was insured for all 12 months. Testimony and Exhibit 7. See also Exhibit 6. The Massachusetts Department of Revenue (DOR) did not assess a penalty against the Wife and she is not listed on Exhibit 1.
3. The Husband resided in Massachusetts starting on June 1, 2022, and ending on December 31, 2022 (7 months). Exhibit 1 and Testimony. The Husband resided in New Jersey in 2021 and again in 2023. See Exhibits 1, 2 and 3 (all listing New Jersey mailing addresses for the Husband). See also Exhibit 5 (Husband's New Jersey Driver's License).
4. The Husband was insured for all 12 months of 2022 as a dependent on the health insurance plan that his Wife through her employment in New Jersey. I base this finding on the Husband's testimony under oath at the appeal hearing that I found credible, on the Husband's letter supporting his appeal (Exhibit 4), and on the Wife's Blue Cross/Blue Shield membership card (Exhibit 7).
5. In 2023 the Husband was living together with his Wife and was again insured under the health insurance plan that his Wife obtained through her employer as a job benefit. Testimony.
6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.

7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's (Husband) appeal from the state Department of Revenue's (DOR) assessment of a four month tax penalty because the Husband did not have health insurance coverage during the seven months that he resided in Massachusetts in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-



month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Massachusetts Department of Revenue (DOR) assessed a four month penalty against the Appellant (Husband) because he did not have Massachusetts health insurance coverage during the seven months (June – December) that he resided in Massachusetts in 2022. The Husband’s Massachusetts residence was temporary. He lived in New Jersey in 2021 and he returned to New Jersey to live in 2023. Throughout this three-year period (2021, 2022, and 2023) the Husband had health insurance coverage as a dependent on the insurance plan that his Wife obtained through her employment in New Jersey.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant (Husband) for 2022. I note that the Wife was insured in New Jersey in 2022 and that the DOR did not assess a penalty against her.

**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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



## Massachusetts Health Connector Appeals Unit

### Tax Penalty Appeal Decision—Docket No. PA22-900

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 14, 2023

**Decision Date:** November 28, 2023

#### **AUTHORITY**

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

#### **JURISDICTION**

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

#### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants' Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Wife's Letter in Support of Appeal (1 page);
5. Wife's Aetna Plan Summary;
6. Wife's Reliance Standard Hospital Indemnity Summary;
7. Wife's Reliance Standard Accident Insurance Summary; and
8. Wife's Reliance Critical Illness Insurance Summary.

## **FINDINGS OF FACT**

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

1. The Department of Revenue (DOR) did not assess a penalty against the Husband for 2022. Exhibit 1. The Husband had health insurance coverage for all 12 months in 2022 through a health insurance plan that was offered through his employer. Testimony.
2. For 2022 the Wife was not insured as a dependent on the Husband's health insurance policy. The Appellants were not married until mid-2022, and the Wife was not eligible to enroll in the Husband's health plan. Testimony.
3. I find that the Wife was insured for all 12 months in 2022 under a health insurance plan offered by her employer. Testimony and Exhibit 4. See also Exhibits 5, 6, 7, and 8 (Wife's summary health insurance documents).
4. The DOR assessed a 12 month penalty against the Wife because the health insurance plan offered by the Wife's employer did not satisfy the Massachusetts Minimum Creditable Coverage standards ("MCC"). See Exhibit 1. The Wife appealed from the penalty assessment under the MCC ground in the pre-printed appeal form. Exhibit 2. See also Exhibit 4 and Testimony.
5. The Wife was employed by the same employer in the prior year (2021), and she was enrolled in the employer's health plan. The Wife was not penalized by the DOR for the prior years. Testimony.
6. The Wife was not informed when she enrolled in her employer's health plan for 2022 that it did not meet MCC standards. The Wife learned about the MCC problem only in early 2023 when she sought to prepare her state income tax return for 2022.
7. The Wife was not informed why her 2022 health insurance policy did not meet MCC standards. The hearing record – including Exhibit 1 prepared by the DOR –

does not state a reason why the insurance did not meet MCC standards. Testimony. See also Exhibits 5, 6, 7, and 8. Exhibit 1 simply states: “Min. Credible Coverage: No” and “Uninsured All Year: Yes.”

8. The Wife’s employer offered two insurance options for 2022. The Wife enrolled in the more expensive and more comprehensive health plan, called the Aetna Buyup Plan, for which she paid a \$86.00 per week premium for individual coverage (\$4,472 per year). Testimony and Exhibits 4 and 5. Under DOR Table 4 the Appellant would have to pay \$290 per month (\$3,480 per year) for individual coverage at her age (34 years) and location (Middlesex County).
9. The Wife was enrolled in a “bundled” health plan that consisted of the four coverages summarized in Exhibit 5 (Aetna plan summary), Exhibit 6 (hospital indemnity), Exhibit 7 (accident insurance), and Exhibit 8 (critical illness).
10. There was a \$7,000 deductible for the Wife’s health plan. Exhibit 5.
11. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2022 Massachusetts income tax return.
12. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the health insurance plan offered by the Wife's employer for 2022 did not meet the Massachusetts Minimum Creditable Coverage standard ("MCC"). See Mass. Gen. Law, c. 111M, sec. 2 (b), above. The Husband was insured all of 2022 under his employer's health plan that met MCC standards, and DOR did not assess a penalty against the Husband. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

After considering the circumstances presented in this case on appeal I conclude that it is appropriate to waive the entire 12 month penalty that the Massachusetts Department of Revenue (DOR) assessed for 2020. The critical facts are summarized as follows:

- The Wife was insured for all 12 months and did not have any advance notice that her employer’s health plan did not meet MCC standards.
- The Wife could not enroll in her Husband’s health plan because they were not married until later in 2022.
- The Wife enrolled in the more complete and expensive health plan offered by her employer, which cost more than the premium under DOR Table 4.
- The “bundled’ health plan offered a broad and comprehensive set of services.

The Health Connector’s regulations describe the medical services that are required to satisfy the Massachusetts Minimum Creditable Coverage standards (“MCC”). The hearing record does not pinpoint why the Wife’s health plan failed to meet the MCC standards. What is readily apparent, however, is that the Wife’s coverage met the general standard set forth in the regulations: “A broad range of medical benefits.” 956 Code Mass. Regs. 5.03 (1) (a).

While I cannot sort through the detailed MCC standards in the context of a tax penalty appeal, it does appear likely that the Wife’s health plan did not meet the MCC requirement for policy deductibles: “\$2,000 for an individual and \$4,000 for a family.” 956 Code Mass. Regs. 5.03 (2) (b) (par. 1). Compare Findings of Fact, No. 10, above (\$7,000 deductible). In this case, however, it is important to bear in mind that the Wife was not alerted in advance that the policy offered by her employer did not meet MCC standards so that she was deprived of an opportunity to make other arrangements. Moreover, the Wife has already paid a substantial sum for her employer’s health plan, so it would be inequitable to add a tax penalty. See Findings of Fact, No. 8, above (\$4,472 per year paid by Wife versus \$3,480 per year under DOR Table 4).

In sum, I waive the entire 12 month penalty that the DOR assessed for 2022.

**PENALTY ASSESSED**

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



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

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-932

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 14, 2023

**Decision Date:** November 15, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Georgia Motor Vehicle Registration
5. Appellant’s Georgia Driver’s License;
6. Appellant’s Georgia Insurance Receipt; and
7. Appellant’s Georgia Neurology Consultation.

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for the months of July through December 2022. The basis for the penalty was that the Appellant was a part-time Massachusetts resident starting on April 1, 2022, and continuing through December 31, 2022, and was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$ 54,036. Exhibit 1.
3. The Appellant was 27 years old at the beginning of 2022 and resided in [name of city or town omitted] in Middlesex County, Massachusetts. Exhibit 1. (I note that the county is uncertain, since all addresses in the hearing record are in Georgia. See, e.g., Exhibit 1, Exhibit 2 and Exhibit 3. See also Exhibits 4 through 6.)
4. The Appellant's 2022 AGI (\$54,036) was more than 300% of the federal poverty level (\$38,640 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$360 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$54,036 AGI = \$4,322.88 per year divided by 12 months = \$360.20 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. The Appellant came to Massachusetts from Georgia, her home state, in April 2022 for what she intended to be a temporary period. She obtained a restaurant job

that she considered seasonal, with the intention of returning to Georgia at the end of the season. Testimony.

8. The Appellant considered herself still a Georgia citizen in 2022. As proof of her continued Georgia citizenship the Appellant submitted into evidence various documents that showed her connection to Georgia in 2022, including her drivers license and motor vehicle registration. Testimony and Exhibits 4 – 7.
9. Georgia, the Appellant asserts, does not require health insurance coverage, so she was not insured in either Georgia or Massachusetts in 2022. The Appellant did seek medical attention in Georgia for which she paid out-of-pocket. The Appellant did not obtain medical care in Massachusetts. Testimony and Exhibit 7.
10. Later in 2022 the Appellant reconsidered her intention to return to Georgia. She applied for health insurance through the Health Connector in late 2022, but she was not able to obtain coverage until early 2023. Testimony.
11. The Appellant remained in Massachusetts in 2023 at a new address in a different town and with health insurance coverage. The Appellant considers herself a Massachusetts resident in 2023 but still a citizen of Georgia in 2022. Testimony.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in

effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant’s appeal from the state Department of Revenue’s (DOR) assessment of a 6 month tax penalty because the Appellant did not have health insurance coverage during the part-year in 2022 when she resided in Massachusetts and filed a Massachusetts state income tax return. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

I will seek to resolve this appeal based on an exercise of discretion, not on a legal assessment of whether in 2022 the Appellant was a citizen of Georgia or of Massachusetts – or when the change took place. The factual underpinning of this case illustrates how the DOR addresses the issue: The Appellant was in Massachusetts for 9 months (starting in April 2022), but the DOR assessed only a 6 month penalty (July – December). See 2022 Massachusetts Schedule HC Health Care: Part-Year Residents, page HC-2. (“If you moved into Massachusetts during 2022, the mandate to obtain and to maintain health insurance applies to you beginning on the first day of the third month following the month you became a resident of Massachusetts.”).

At some later point in 2022 the Appellant reconsidered her position and decided to remain in Massachusetts, and she took steps consistent with her change of plans. The Appellant began to seek medical insurance coverage through the Health Connector: her efforts were not successful in late 2022, but she did obtain insurance coverage in early 2023. Indeed, given the Health Connector’s “open enrollment” policy the Appellant would have encountered difficulty obtaining coverage earlier than January 1, 2023.

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

**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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit





Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-933

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 14, 2023

**Decision Date:** November 16, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page).
5. Appellant’s 2022 Form MA 1099-HC From United HealthCare;
6. Appellant’s Receipt for Altrua Health Insurance;
7. Appellant’s Receipt for Altrua Health Insurance;
8. Appellant’s Receipt for Altrua Health Insurance; and
9. Three Visa Payment Receipts for Altrua Coverage (Exhibits 6, 7 and 8).

## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 2 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months of January – July 2022 (7 months) but not for the months of August – December 2022 (5 months). Exhibits 1 and 2. I will address the insurance coverage issue in more detail below. (The calculation behind the DOR penalty assessment is 12 months minus 7 months insured = 5 months uninsured minus 3-month administrative grace period = 2 penalty months.)
2. From January 2022 until July 2022 the Appellant was employed full-time for a retail store and was enrolled in health insurance coverage provided by his employer as a job benefit. The Appellant was terminated from his job with the resulting loss of his health insurance coverage at the end of July 2022. The Appellant subsequently received a 2022 MA Form 1099-HC from United HealthCare that reported that the Appellant was insured for the months of January through July 2022 but not for the remainder of the year. Testimony, Exhibit 4, and Exhibit 5.
3. The Appellant found a new job in August 2022. His new employer offered the Appellant health insurance as a job benefit but only after a waiting period (The length of the waiting period is unclear.). Testimony.
4. There was a gap in the Appellant's health insurance coverage for the months of August and September 2022. Testimony and Exhibit 4. See also Exhibits 5 – 8.
5. For the month of October 2022 the Appellant purchased health insurance coverage through a broker from Altrua Health Share (located in Florida). The Appellant concurrently paid a one month premium, as evidenced by his Visa credit card receipt. Testimony, Exhibit 4, Exhibit 5, and Exhibit 7.
6. For the months of November and December 2022 the Appellant repeated his health insurance transaction with Altrua Health Share and made payment on his Visa credit card for the monthly premiums. Testimony, Exhibits 4 – 9.

7. In 2023 the Appellant shifted to a new full-time job that offered health insurance as a job benefit. The new job started in March, and the Appellant enrolled in his new employer's health plan effective in April 2023. I base this finding on the Appellant's appeal hearing testimony, which I found credible, since there is no documentary evidence in the hearing record concerning 2023.
8. The Appellant did not receive a 2022 MA Form 1099-HC for his three months of Altrua Health Share coverage. Accordingly, the Appellant submitted copies of the receipts that are attached for October, November and December. Testimony and Exhibit 4. See Exhibits 5 – 9. Compare Findings of Fact, No. 2, above (2022 Form 1099-HC for United HealthCare coverage for January – July 2022).
9. The Appellant had no understanding that the Altrua coverage that he obtained for part of 2022 did not satisfy the Massachusetts Minimum Creditable Coverage requirement ("MCC"). In Exhibit 1, the DOR reported that the Appellant's coverage met MCC standards but DOR also reported that the Appellant did not have health insurance for any months after July 2022, which is inconsistent with my findings of fact based on the evidence presented on appeal. I find that it is likely that the Altrua insurance that the Appellant purchased did not meet the MCC standards and that this explains why the Appellant did not receive a 2022 MA Form 1099-HC from Altrua.
10. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$45,624. Exhibit 1.
11. The Appellant was 27 years old at the beginning of 2022 and resided in [name of city or town omitted] in Norfolk County, Massachusetts. Exhibit 1.
12. Based on DOR Table 3 the Appellant could afford to pay 7.60 % of his income -- or \$289 per month -- for health insurance coverage in 2022. (The calculation is 7.60 % multiplied by \$45,624 AGI = \$3,467.42 per year divided by 12 months = \$288.95 per month.)
13. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$277 per month in 2022.

14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 2 month tax penalty because the Appellant did not have health insurance coverage for the months of August – December 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum

creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this appeal -- after I considered the Appellant’s testimony at the appeal hearing along with the documents that he submitted in support of his appeal (Exhibits 4 – 9) -- I conclude that it is appropriate to waive the entire 2 month penalty that that the DOR assessed for 2022.

There is no dispute that the Appellant was insured through a former employer for the months of January – July 2022. This is verified by the DOR (Exhibit 1), by the 2022 MA Form 1099-HC provided by United Health Care (Exhibit 5), by the Appellant’s Supporting Letter (Exhibit 4), and by the Appellant’s testimony at the appeal hearing.

The issue is what happens after the Appellant lost his health insurance in July 2022 after his former employer terminated him from his job. Throughout this period the evidence shows that the Appellant sought to obtain a new job and to obtain health insurance coverage. The Appellant quickly found a new job in August that offered him health insurance as a job benefit after an indeterminate waiting period. Recognizing that he still lacked insurance the Appellant went back into the market and purchased coverage from Altrua Health Group for the months of October, November and December.

If the Altrua policy met the MCC standards this case would be over. The Appellant would be insured for all of 2022 except for the two month gap for August and September, which would be covered by the DOR 3-month administrative grace price.

If the Altrua policy did not meet MCC standards (as seems most probable) I would not impose a penalty under these circumstances. First, the Appellant was not informed before he made the purchase that Altrua did not satisfy the MCC requirements. Second, the Appellant has already paid out of pocket a premium for the Altrua October, November and December coverage. The outcome is too stringent to impose a tax penalty on top of the Appellant's payment of a monthly premium.

What stands out in this appeal is the Appellant's persistence in seeking new employment and new health insurance coverage in the months after July when he lost his job and his employer's subsidized health insurance. For these reasons I conclude that it is appropriate to waive the entire 2 month penalty assessed by the DOR.

**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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit





Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-934

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 14, 2023

**Decision Date:** November 29, 2023

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Appellant’s Payroll Statements (dated 3/10/23 and 3/24/23);
6. Massachusetts Probate Court – Temporary Order (2022).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a Head of Household with one dependent. The Appellant's federal adjusted gross income (AGI) for 2022 was \$50,168. Exhibit 1.
3. The Appellant was 58 years old at the beginning of 2022 and resided in [name of city or town omitted] in Bristol County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$50,168) was less than 300% of the federal poverty level (\$52,260 for a two-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 7.40% of her income -- or \$309 per month -- for health insurance coverage in 2022. (The calculation is 7.40% multiplied by \$50,168 AGI = \$3,712.43 per year divided by 12 months = \$309.36 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$435 per month in 2022.
7. In 2022 the Appellant earned \$15.30 per hour from an employer where she had worked approximately 15 years. The Appellant was not insured through her employer. Testimony and Exhibit 5.
8. The Appellant is divorced. For 2021 and for prior years the Appellant had health insurance coverage as a dependent on her ex-Husband's union health insurance plan. For 2022 the union changed its policy and no longer provided coverage for ex-spouses. Consequently, the Appellant was not insured in 2022 (the year at issue in this appeal). Testimony and Exhibit 4. See also Exhibit 6 (court order reducing child support).

9. The Appellant's teenage child is insured by MassHealth. Testimony.
10. The Appellant was experiencing financial difficulties in 2022, in part caused by the coronavirus pandemic and inflation. The court reduced the child support that she receives; her car payment was \$291 per month; and her rent increased to \$675 per month in early 2023. Testimony. See also Exhibit 6.
11. In early 2023 the Appellant was approved for government-subsidized health insurance through the Health Connector. The Appellant pays \$10.13 per month for her health insurance premium. Testimony.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not

have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

2022 was a transitional year for the Appellant. In 2021 and in prior years the Appellant’s ex-Husband had provided her health insurance coverage as a dependent under the ex-Husband’s union health insurance policy. The union then changed its policy resulting in the Appellant’s loss of health insurance coverage in 2022. The Appellant’s effort to obtain replacement health insurance policy was successful in 2023.

The Appellant could not afford health insurance in 2022 under the objective affordability standards set forth in DOR Table 3 and DOR Table 4. On her income the Appellant could afford to pay \$309 per month for insurance coverage that would cost her \$435 per month. See Findings of Fact, Nos. 5 and 6.

DOR Table 2 also indicated that the Appellant should be eligible for government-subsidized health insurance. See Findings of Fact, No. 4, above. This was borne out when the Appellant was approved for coverage in 2023 through the Health Connector with a subsidized premium in the amount of \$10.13 per month. See Findings of Fact, No. 11, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**RECOMMENDATION.** Since you are new to the Health Connector I add that the annual open enrollment period will be nearing an end by the time that you receive a copy of this decision in the mail. You will have to take steps to maintain your insurance coverage starting in January 2024. See the Health Connector website at [www.mahealthconnector.org](http://www.mahealthconnector.org) or call customer service at 1-877-623-6765.

**PENALTY ASSESSED**

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

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

OR

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

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



## Massachusetts Health Connector Appeals Unit

### Tax Penalty Appeal Decision—Docket No. PA22-885

**Appeal Decision:** Appeal Approved -- 2022 tax penalty overturned.

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

**Hearing Date:** November 8, 2023

**Decision Date:** November 12, 2023

#### **AUTHORITY**

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

#### **JURISDICTION**

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

#### **HEARING RECORD**

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Health Connector Processing Center, Letter Denying Health Connector Eligibility;  
and
5. Appellant's Hearing Request Form (5 pages).



## **FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 2 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months of January through July (7 months) but not for the months of August through December 2022 (5 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 7 months insured = 5 months uninsured minus 3-month administrative grace period = 2 penalty months.)
2. The Appellant graduated from college in May 2022 which resulted in the loss of the health insurance coverage in July that she had as a student. The Appellant's Health Connector application was denied. Testimony, Exhibit 4, and Exhibit 5.
3. The Appellant sought to convert her part-time job as a student into a full-time job with health insurance benefits after her college graduation. The Appellant's expectation was that her employer had represented that this would happen. There was a turnover in managers, and the Appellant continued as a part-time employee without benefits in 2022. Testimony. See also Exhibit 5.
4. The Appellant also sought health insurance through the Health Connector, but the premium quotations that she received were more than the Appellant thought she could afford (e.g., \$500 per month quotation compared to \$277 per month under DOR Table 4 (Region 2)). Testimony. The Appellant's application to the Health Connector for coverage was denied in writing. Exhibit 4.
5. In March 2023 the Appellant obtained a new job with full-time hours and with health insurance as a job benefit. Testimony.

6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a two month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M,

sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant lost the health insurance coverage that she had as a student following her college graduation. For the remainder of 2022 the Appellant sought to convert the part-time job without benefits that she had as a student into a full-time job with health insurance as a job benefit. Despite the Appellant’s understanding that her employer intended to make this change it never happened with the multiple change of managers that took place. Ultimately, the Appellant testified, the Appellant obtained a full-time job with health insurance as a job benefit with a new employer in March 2023.

After considering all the circumstances I conclude that it is appropriate to waive the entire two-month penalty that the DOD assessed for 2022. The Appellant was in transition from her student health insurance coverage. She made repeated efforts in 2022 to convert her part-time student job into a full-time job with health insurance. Ultimately, the Appellant found a new job with health insurance coverage in early 2023.

I recommend that the Appellant should inquire what steps she must take, and when, to continue her health insurance coverage in 2024. The Health Connector, along with most private insurers and employer-sponsored health plans, have an open enrollment period in November (which is when the Appellant will receive this appeal decision in the mail).

**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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit



FINAL APPEAL DECISION: PA 22-978

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

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

**Hearing Date:** November 27, 2023

**Decision Date:** November 30, 2023

**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 27, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- |            |   |         |
|------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC.                                 | (1 P).  |
| Exhibit 2: | Statement of Grounds for Appeal 2022 and Appellant Correspondence Undated | (3 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 10/24/2023                     | (2 PP). |

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 29 in 2022, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2022 was \$66,930. (Exhibit 1).
3. Appellant testified she had insurance through the Connector in prior years with a monthly premium of approximately \$117, but was put "on halt" due to her income changing. (Exhibit 2, Appellant's Testimony).

4. According to Table 3 Appellant could have afforded \$446.30 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
5. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
6. The Appellant Employer did not offer Employer Sponsored Insurance ("ESI"). (Exhibit 1, Appellant's Testimony).
7. The Appellant's monthly living expenses in 2022 included: Rent \$500, School Full Time: \$1,000, Utilities: \$250, Car Payment: \$480, Car Insurance: \$174, Transportation Costs: \$200, Cell Phone: \$66, Internet: \$200, Food \$400, Credit Cards: \$100, totaling \$3,370. (Appellant's Testimony).
8. The Appellant testified her net take home pay was \$1,800 Bi-Weekly during the time she was being penalized. (Appellant Testimony).
9. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to her because the expense of purchasing health insurance during 2022 would have caused her a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that her income for 2022, \$66,930 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$446.30 per month. According to Table 4, Appellant, age and living 29 living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that her employer did not offer ESI based on the small size of the Company which she was employed. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI since it was not offered by her employer. (Appellant's Testimony).

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

The Appellant's adjusted gross income was \$66,930. The Appellant's net take home pay was \$1,800 Bi-Weekly (Appellant Testimony), or approximately \$3,600. (Appellant Testimony). Her monthly living expenses totaled \$3,370. (Exhibit 1, see par. above). Accordingly, I conclude that purchasing health insurance during 2022 at \$446.30 per month, given the Appellant's adjusted gross income of \$66,930, would not have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1)( e ) & (3). However, in order to mitigate the harshness of a full penalty, I reduce the Appellant's assessed tax penalty from twelve (12) months to one (1) month.

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is partially **approved**.



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

**PENALTY ASSESSED**

Number of Months Appealed: 12      Number of Months Assessed: 1

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

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

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

Cc:      Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-808

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

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

**Hearing Date:** October 10, 2023

**Decision Date:** November 13, 2023

### **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 10, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 19, 2023 with letter and health insurance card attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated September 12, 2023 for October 10, 2023 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 31 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$29,202 in 2022 (Testimony of Appellant, Exhibit 2).
4. From January through August, 2022, Appellant worked at a seasonal job as a mason. Appellant's employment was weather-dependent. At most, Appellant earned about \$900 a week, but many weeks, especially from January through March, Appellant earned significantly less. Appellant was not offered health insurance through this job (Testimony of Appellant).
5. At the end of August, Appellant changed jobs. Appellant's income became stable. Appellant was offered health insurance which met the Commonwealth's minimum creditable coverage standards. Appellant enrolled in the offered plan. The coverage became effective at the beginning of November. Appellant also had coverage in December. As of the date of this hearing, Appellant still had coverage (Testimony of Appellant).

6. When Appellant was not offered health insurance by his first employer in 2022, Appellant sought coverage. He looked and applied for coverage on-line. He received a call from someone he thought worked for the Connector, and ended up buying coverage through a broker. Appellant paid for coverage from January through August. Appellant paid \$330 a month for the insurance. He did not realize that the plan he purchased did not meet the Commonwealth's standards. He only found out that the plan was inadequate when he had an injury and needed diagnostic procedures. He found that the plan covered very little (Testimony of Appellant).
7. When the appellant started work at a new job in September, Appellant was offered health insurance. He enrolled and obtained health insurance which met the Commonwealth's standards as of November 1, 2022. As of the date of this hearing, Appellant still had the coverage (Testimony of Appellant).
8. Appellant had health insurance that met the Commonwealth's standards for two months in 2022, November and December. Appellant has been assessed a penalty for seven months, January through July. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$29,202 could afford to pay \$102 per month for health insurance. According to Table 4, Appellant, 31 years old and living in Middlesex County, could have purchased insurance for \$290 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
11. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2022: rent and heat-\$825; electricity-\$125; telephone-\$65; food, household items, and personal care items-\$430; car insurance-\$400; gas-\$430; health insurance-\$330 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Appellant had health insurance in November and December, 2022 that met the Commonwealth’s minimum creditable coverage standards. Appellant has been assessed a penalty for seven months, January through July since Appellant is entitled to a three-month grace period prior to obtaining coverage. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$29,202 could afford to pay \$102 per month for health insurance. According to Table 4, Appellant, 31 years old and living in Middlesex County, could have purchased insurance for \$290 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$29,202, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for other government sponsored program.

Appellant was not offered health insurance through the job he had from January through August. He was offered health insurance through the job he had in from September through December, but the effective start date was not until November 1, 2022. See the testimony of the appellant which I find to be credible. Appellant had no access to employer-sponsored health insurance during the months for which he has been assessed a tax penalty. See Exhibit 2 also.

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

Appellant had the following expenses for basic necessities in 2022: rent and heat-\$825; electricity-\$125; telephone-\$65; food, household items, and personal care items-\$430; car insurance-\$400; gas-\$430; health insurance-\$330. See the testimony of appellant which I find to be credible.

Appellant’s Federal Adjusted Gross Income in 2020 was \$29,202. Appellant’s pay before taxes and other deductions came to about \$2,600 per month. His expenses amounted to about \$2,500. I note that Appellant earned less during January through March. After taxes, Appellant had no disposable income and probably ran a deficit. Based

upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant. See Exhibit 2 and the testimony of the appellant which I find credible.

I also note that Appellant tried to obtain health insurance, purchased coverage thinking he was obtaining coverage through the Connector, and paid a monthly premium during the period for which he has been assessed a penalty. As soon as the appellant was offered insurance through a new job which met the Commonwealth's standards, he enrolled in the plan. Appellant, as of the date of this hearing, still had the coverage.

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

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-810

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

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

**Hearing Date:** October 10, 2023

**Decision Date:** November 24, 2023

### **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 10, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 17, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated September 12, 2023 for October 10, 2023 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 20 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2022. He first resided with a relative; in September, he moved to his own apartment (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$34,819 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job all year. The appellant earned the same amount throughout the year (Testimony of Appellant).
5. Appellant's employer offered health insurance to the appellant, but the appellant did not enroll in the coverage. Appellant does not remember what the cost would have been (Testimony of Appellant).

6. Appellant had no health insurance that met the Commonwealth's standards in 2022. Appellant has been assessed a penalty for twelve months. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$34,819 could afford to pay \$145 per month for health insurance. According to Table 4, Appellant, 20 years old and living in Norfolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities from January through August, 2022: rent and heat-\$0.00; telephone-\$115; food, household items, and personal care items-\$570; car insurance-\$200; gas-\$200; car repairs-\$40; clothing-\$50; personal debt payment-\$165. From September through December, after the appellant moved to his own apartment, Appellant had the following additional expenses: rent-\$1,100; electricity-\$50; heat-\$200; food, household items, and personal care items-\$725. During the year, Appellant spent \$200 on eyeglasses and \$600 to visit his mother and sibling (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant had no health insurance in 2022 that met the Commonwealth's minimum creditable coverage standards. Appellant has been assessed a penalty for twelve months. The appellant has appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$34,819 could afford to pay \$145 per month for health insurance. According to Table 4, Appellant, 20 years old and living in Norfolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program based upon income. The appellant's annual Federal Adjusted Income was \$34,819, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored programs.

Appellant was offered health insurance through his job. He chose not to purchase the coverage. There is no evidence about the cost or the extent of coverage. See the testimony of the appellant which I find to be credible.

Since the appellant could have obtained affordable health insurance through the ConnectorCare program based upon income, 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 monthly expenses for basic necessities from January through August, 2022: rent and heat-\$0.00; telephone-\$115; food, household items, and personal care items-\$570; car insurance-\$200; gas-\$200; car repairs-\$40; clothing-\$50; personal debt payment-\$165. From September through December, after the appellant moved to his own apartment, Appellant had the following additional expenses: rent-\$1,100; electricity-\$50; heat-\$200; food, household items, and personal care items-\$725. During the year, Appellant spent \$200 on eyeglasses and \$600 to visit his mother and sibling who lived on the west coast. See the testimony of appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$34,819. Appellant's pay before taxes and other deductions came to about \$2,900 per month. His expenses amounted to about \$1,800 from January through August. Once he moved, Appellant had expenses \$2,900 a month. After taxes, Appellant had no disposable income from September through December. If we consider that Appellant had to pay taxes, he ran a deficit during these months. Based upon these facts, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities during the last four months of the year. This constitutes financial hardship, making health insurance unaffordable for the appellant. See Exhibit 2 and the testimony of the appellant which I find credible. Earlier in the year, Appellant's expenses were less than his income, but if we take into account expenses for eyeglasses and travel to visit his mother and sibling, and the deficit Appellant ran towards the end of the year, I determine that Appellant experienced a financial hardship throughout the year. See 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant.

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



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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-790

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

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

**Hearing Date:** October 5, 2023

**Decision Date:** November 14, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on October 5, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to provide additional information about their health insurance in 2022, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (14 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 5, 2023 (2 pages).
- Exhibit 4: Open Record Request, dated October 5, 2023 (2 pages)
- Exhibit 5: Credit card statements from 2022 submitted in response to Open Record Request (12 pages)
- Exhibit 6: Information regarding Mexican health insurance plan submitted in response to Open Record Request (11 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 28 in October 2022. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$54,271. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, 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." (Exhibit 2).
7. The Appellant submitted a letter stating, "I filled out an appeal for my health insurance because my health insurance provider did not send me the right documentation to file my taxes. I reached out for a verification document to make sure I could appeal this." The Appellant further stated that they had been enrolled in health insurance since May 1, 2021, had monthly payments of \$173, and paid a total of \$2076 for health insurance in 2022. (Exhibit 2).
8. The Appellant submitted a card for a Vital Care Elite plan that stated, "This is not a minimum essential coverage plan. This plan is not ACA compliant." (Exhibit 2).
9. A hearing on the Appellant's appeal took place telephonically on October 5, 2023. (Exhibit 3). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellant's AGI of \$54,271 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$54,271, could have afforded to pay \$361 per month for health insurance. The calculation is as follows: Table 3

states that a single person with no dependents whose 2022 AGI was \$51,521 and above could have spent 8% of their earnings on health insurance; 8% of \$54,271 is \$4,341, and one-twelfth of \$4,341 is \$361.

13. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 27 living in Suffolk County in January 2022, cost \$277 per month.
14. The Appellant testified that they are from Mexico and were aware that Massachusetts required that they have health insurance, but that they did not know they needed to have a specific kind of health insurance.
15. The Appellant testified that they went on-line to purchase the U.S. insurance in which they were enrolled in 2022 in order to meet Massachusetts requirements and that they were unaware that it was bad insurance. The Appellant testified that they did not know that this insurance did not meet Massachusetts requirements until they prepared their taxes for 2022.
16. The Appellant testified that they did not know that they could have purchased health insurance through the Health Connector and that if they had known about the Health Connector, they would have purchased health insurance through it.
17. The Appellant testified that in addition to their U.S. plan, they were enrolled in a Mexican insurance plan that covered their health expenses, including if they were travelling or studying internationally.
18. The Appellant testified that they got into an accident in 2022, and their Mexican health insurance plan covered their accident-related health expenses, but their U.S. plan did not.
19. The Appellant testified that the cost for their Mexican health insurance plan is \$500 per month, of which they pay approximately \$250, and their father pays the rest.
20. The Appellant testified that they worked as a real estate agent and rideshare driver in 2022 and that their income fluctuated significantly.
21. The Appellant testified that health insurance was not available to them through employment.
22. The Appellant testified that they are currently enrolled in a graduate program and have Blue Cross Blue Shield health insurance through their school.
23. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1700 for rent; \$150 for utilities; \$75 for Internet; \$469 for a car payment; \$200 for car insurance; \$100 for parking; \$400-\$500 for gas; \$100 for a cellphone; \$400 for food; \$83 for working clothing (based on spending approximately \$1000 in a year); and \$200 for household supplies and toiletries.

24. I left the record open for the Appellant to provide documentation of their payments in 2022 for their U.S. plan and a description of the benefits provided by their Mexican insurance plan. (Exhibit 4).

25. On October 20, 2023, the Appellant provided credit card statements showing that for every month in 2022, the Appellant was charged \$173 by the Association Health Care Management. (Exhibit 5). The Appellant also provided a document in Spanish showing their name on an insurance plan issued by GNP in effect from February 2, 2023 to February 2, 2024. (Exhibit 6).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that health insurance was not available to them through employment. Finding of Fact No. 21.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 11.

Third, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$361 per month for insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards that was available to the Appellant on the private market cost \$277 per month. Findings of Fact Nos. 12 and 13. However, I find that such insurance was not actually available to the Appellant because the Appellant was already paying \$173 per month for a plan that the Appellant believed satisfied Massachusetts requirements. Findings of Fact Nos. 7 and 15 and Exhibit 5. The Appellant's belief, which I credit, that this plan satisfied Massachusetts requirements effectively blocked the Appellant from purchasing health insurance that did meet MCC standards. The Appellant had no need to look for insurance that met MCC standards because they believed that they already had adequate insurance.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

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

Hearing Officer

cc:      Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22812

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

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

**Hearing Date:** October 10, 2023

**Decision Date:** November 24, 2023

### **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 10, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 22, 2023 with list of expenses and statement attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated September 12, 2023 for October 10, 2023 hearing
- Exhibit 4: U. S. Department of State payment receipt for immigration application
- Exhibit 5: Emails to Appellant regarding transfers of funds to family out of country
- Exhibit 6: Emails to and from Appellant regarding medical insurance offered through employment

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a married person separately with no dependents claimed, was 26 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant moved to Massachusetts in February, 2022 from another state which did not require health insurance coverage. He resided in Suffolk County for the rest of 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$52,634 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job from February through December. He worked at a college in the Boston area. He earned \$41,800 at this job. He was offered health insurance which would have cost Appellant about \$160 a month. He opted for dental and vision coverage only, not understanding that he was required to have medical coverage. He asked his employer if he could opt not to take the medical coverage. His employer said he could opt only to take

dental and vision. He was not informed by his employer of the requirement to have medical coverage (Testimony of Appellant, Exhibit 6).

5. In August, Appellant started a part-time job at a grocery store. From August until the end of the year, Appellant earned \$11,000 at this job. Appellant took the second job because he found it necessary to supplement his income. He was not offered health insurance by the grocery (Testimony of Appellant).

6. Appellant had no health insurance which met the Commonwealth's minimum creditable coverage standards after he moved to MA in February. In August, Appellant found out, after talking to a colleague, that he was required to have medical coverage. He tried to find coverage, but was told he could not purchase coverage outside of the open enrollment period. He went on-line, found a company that offered to arrange coverage if he paid a \$120 application fee, and then discovered that the offer was a scam. He lost his \$120 (Testimony of Appellant, Exhibit 2).

7. In November, 2022, during open enrollment period, Appellant enrolled in the plan offered by his employer, with an effective start date of January 1, 2023. As of the date of this hearing, Appellant still had the coverage (Testimony of Appellant).

8. Appellant has been assessed a penalty for eight months, May through December. Appellant has appealed the assessment (Testimony of Appellant, Exhibits 1 and 2).

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

10. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$52,634 could afford to pay \$350 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Suffolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).

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

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

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

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

15. Appellant had the following monthly expenses for basic necessities in 2022: rent-\$900; electricity, heat, and internet- \$125; telephone-\$45; food, household items, and personal care items-\$425; clothing-\$25; car insurance-\$160; gas-\$180; dental and vision insurance-\$25; dental care-\$30. In addition, Appellant had obligations to support his mother, his sister, and his wife who lived in Appellant's country of origin. Every month, Appellant sent them \$650. He also paid \$1,000 for immigration fees for an application for his wife to enter the U. S. His wife was able to enter the country in February, 2023 (Testimony of Appellant, Exhibit 1, 4, and 5).



## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant had no health insurance which met the Commonwealth’s standards after he moved to Massachusetts in February, 2022. Appellant has been assessed a penalty for eight months, May through December since he is entitled to a three-month grace period after moving to the Commonwealth. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$52,634 could afford to pay \$350 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Suffolk County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$52,634, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was offered health insurance through his full-time job. The cost would have been affordable, \$160 a month. Appellant, who did not realize that under MA law he was required to have coverage (having just moved to MA from another state) did not opt for the coverage. His employer did not inform him of the requirement and instead told him that it was okay to turn down the coverage. In August, the appellant took on a second job. He was not offered health insurance through this job which was part-time. See the testimony of the appellant which I find to be credible, and Exhibit 6.

Had the appellant realized he needed to have coverage in Massachusetts when he first moved here, he could have obtained affordable health insurance through the individual market or through employment during a special enrollment period. But, the appellant, originally from another country, and newly arrived in Massachusetts from a state

that did not require coverage, had no idea that health insurance was required. When he started work, he asked his employer if he could turn down the offered coverage. His employer told him he could. It was only months later that a colleague informed him of the requirement. Appellant then tried to get coverage. He was turned down because he was applying outside of the open enrollment period. Trying online, Appellant became the victim of a scam and lost an “application” fee. As soon as he could enroll through work, during the next open enrollment period, Appellant obtained coverage effective January 1, 2023. See the testimony of the appellant which I find to be credible and Exhibit 6.

Based upon the facts summarized above, I determine that Appellant’s penalty should be waived. In addition, considering the appellant’s financial situation, his penalty should be waived. He spent a significant portion of his monthly income helping his mother, his sister, and his wife, all of whom lived in Appellant’s country of origin. He gave them financial support for basic necessities, as well as for medical care, and educational expenditures. He also paid immigration fees so that his wife could join him in the United States. See the testimony of the appellant which I find to be credible and Exhibits 1, 4, and 5. Pursuant to 956 CMR 6.08(3) which allows the consideration of financial issues raised by the appellant, Appellant’s penalty is waived.

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-867

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

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

**Hearing Date:** November 3, 2023

**Decision Date:** November 13, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 3, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant (8 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 3, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 29 in August 2022. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$39,945. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, 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." (Exhibit 2).
7. The Appellant submitted a handwritten note stating that they purchased health insurance through their employer and that their employer did not offer health insurance plans that met MCC standards.
8. The Appellant submitted a federal Form 1095-B from their employer showing that they had health insurance throughout 2022.
9. A hearing on the Appellant's appeal took place telephonically on November 3, 2023. (Exhibit 3). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellant's AGI of \$39,945 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$39,945, could have afforded to pay \$247 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$38,641 and \$45,080 could have spent 7.45% of their earnings on health insurance; 7.45% of \$39,945 is \$2,975, and one-twelfth of \$2,975 is \$247.
13. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 28 living in Suffolk County in January 2022, cost \$277 per month.

14. The Appellant testified that they began working at their job approximately two years ago and that shortly after they began working there, open enrollment for health insurance began. The Appellant testified that they decided to enroll in their employer's health insurance because it was ideal for them to have health insurance payments come out of their paycheck.
15. The Appellant testified that their employer offered only two health insurance plans, both of which were bundled with indemnity insurance.
16. The Appellant testified that they were paid weekly and that \$50 was deducted from each paycheck for their health insurance.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant submitted a statement, which I find credible, that

the Appellant's employer did not offer health insurance that met MCC requirements. Finding of Fact No. 7.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 11.

Third, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$247 per month for insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards on the private market that was available to the Appellant cost \$277 per month and was therefore unaffordable to them. Findings of Fact Nos. 12 and 13.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through employment, a government-subsidized program, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

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

Hearing Officer

cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-870

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

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

**Hearing Date:** November 3, 2023

**Decision Date:** November 14, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 3, 2023. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal submitted by the Appellant (14 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 3, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 26 in May 2022. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2022. (Exhibit 1) and Appellant Testimony.

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$54,851. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant submitted a letter stating that they moved to Massachusetts in December 2021 to take a job as a childcare provider and that their employer did not provide health insurance. The Appellant stated in their letter that they were unable to afford health insurance because they were responsible for their rent, car loan payment, car insurance, student loan payments, and household/life expenses. The Appellant further stated that they are now able to afford health insurance and obtained health insurance through the Health Connector. The Appellant stated that they obtained a waiver to obtain health insurance outside of the open enrollment period from the Office of Patient Protection on the grounds that they did not intentionally forgo enrollment. (Exhibit 2).
8. The Appellant submitted a copy of the waiver from the Office of Patient Protection, dated February 7, 2023. (Exhibit 2).
9. The Appellant submitted a copy of their "Nanny Work Agreement" with their employer. The agreement states that the employer was unable to provide health insurance. (Exhibit 2).
10. A hearing on the Appellant's appeal took place telephonically on November 3, 2023. (Exhibit 3). The Appellant appeared at the hearing.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
12. The Appellant's AGI of \$54,851 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
13. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$54,851, could have afforded to pay \$365 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$51,521 and above



could have spent 8% of their earnings on health insurance; 8% of \$54,851 is \$4,388, and one-twelfth of \$4,388 is \$365.

14. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 25 living in Suffolk County in January 2022, cost \$277 per month.
15. The Appellant testified that they relocated to Massachusetts at the end of December 2021 to take a job as a childcare provider.
16. The Appellant testified that their employer did provide health insurance.
17. The Appellant testified that their plan was to get established in Massachusetts and then obtain health insurance. The Appellant testified that they were unaware that Massachusetts imposes a tax penalty on individuals who do not have health insurance.
18. The Appellant testified that they were not able to find space in their budget in 2022 for health insurance because of their other expenses, including moving expenses.
19. The Appellant testified that they had approximately \$2000 in moving expenses, including a \$1500 brokers' fee for their apartment and approximately \$500 in transportation costs.
20. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1500 for rent; \$100-150 per month for utilities; \$80 for wifi; \$500 for a car loan; \$300 for car insurance; \$70 for gas; \$75 for a cellphone; \$300 for food; \$50 for household supplies and toiletries; and \$120 in private student loans.
21. The Appellant testified that they have had health insurance since April 2023. The Appellant testified that they sold their car and made other financial decisions that enabled them to afford health insurance.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant testified that their employer did not provide health insurance, and they submitted a contract that stated that their employer would not provide health insurance. Findings of Fact Nos. 9 and 16 and Exhibit 2.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 12.

Third, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$365 per month for insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards that was available to the Appellant on the private market cost \$277 per month. Findings of Fact Nos. 13 and 14. However, I find that the Appellant was not actually able to afford this health insurance because the Appellant suffered a hardship. The Appellant credibly testified that they incurred \$2000 in expenses in connection with their move to Massachusetts at the end of 2021. Finding of Fact No. 19. I find that these moving expenses, which seem reasonable, rendered health insurance unaffordable for the Appellant in 2022. The difference between what the Appellant theoretically could have afforded to pay for health insurance (\$365 per month) and the least expensive plan available to them on the private market (\$277 per month) was \$88 per month or \$1,056 per year. The Appellant's \$2000 in moving expenses would not only have eliminated the extra \$1,056 available to the Appellant, but they also would have cut into the Appellant's underlying budget for health insurance. As a result, I find that the Appellant could not have afforded to purchase health insurance on the private market in 2022 and that had the Appellant done so, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

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

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

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

Hearing Officer

cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-873

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

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

**Hearing Date:** November 7, 2023

**Decision Date:** November 17, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 7, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (13 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 5, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 33 in June 2022. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$55,925. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2).
7. The Appellant submitted a handwritten statement with their Statement of Grounds for Appeal in which they stated that they did not have the option of obtaining health insurance through work and that the price they were quoted from the Health Connector was too high. The Appellant further stated that they moved out of a home with their ex in November/December of 2021 and that their circumstances "were worse than before due to having to pay all the bills myself." The Appellant further stated, "I have NOT used the healthcare system and do not intend to." (Exhibit 2).
8. The Appellant submitted with their Statement of Grounds for Appeal the following financial documentation: a February 16, 2023 mortgage statement listing a regular monthly payment of \$1,081.69; a December 28, 2022 AT&T bill for \$86.44; a March 25, 2023 Target credit card bill with a \$4,123.58 balance and a \$313 minimum payment; a March 20, 2023 electric bill of \$37.12; a January 6, 2023 homeowners insurance bill requiring a minimum payment of \$212.66; a February 11, 2023 Xfinity bill of \$164.14; an April 7, 2023 credit card bill with a balance of \$6,068 and a \$215 minimum payment.
9. A hearing on the Appellant's appeal took place telephonically on November 7, 2023. (Exhibit 3). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellant's AGI of \$55,925 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$55,925, could have afforded to pay \$372 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 and above could

have spent 8% of their earnings on health insurance; 8% of \$55,925 is \$4,474, and one-twelfth of \$4,474 is \$372.

13. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 32 living in Plymouth County in January 2022, cost \$290 per month.
14. The Appellant testified that they worked in construction in 2022 and that their employer did not offer health insurance. The Appellant testified that their work was consistent and that they worked around 40 hours per week.
15. The Appellant testified that they spoke to the Health Connector almost a year ago about obtaining insurance but that they did not remember the quote for health insurance that the Health Connector gave them.
16. The Appellant testified that they have been penalized for not having health insurance for the past two to three years but that this was their first appeal of the tax penalty.
17. The Appellant estimated that they had the following monthly expenses in 2022: \$1100 for mortgage; \$40 for electricity; \$450 for homeowner association fees; \$180 for cable/Internet; \$50 for homeowners' insurance (based on \$600/year); \$80 for cellphone; \$33 for work clothes (based on spending \$200 for clothing a couple of times per year); and \$200 for food and household supplies. The Appellant testified that they did not have a car payment and that they did not remember how much they spent on gas per month.
18. The Appellant testified that they do not see why they get penalized for not having something (health insurance) that they don't use. The Appellant testified that they could not find health insurance that was affordable for them.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that health insurance was not available to them through employment. Finding of Fact No. 14.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 11.

Third, I conclude that the Appellant could have obtained affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$372 per month for insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards that was available to the Appellant on the private market cost \$290 per month. Findings of Fact Nos. 12 and 13. The Appellant appealed their 12-month penalty on the grounds that they suffered a hardship and that during 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities. Finding of Fact No. 6. However, I find that the Appellant failed to submit sufficient evidence demonstrating that the purchase of health insurance would have in fact caused them a hardship.

Reviewing the totality of the evidence, I find that the Appellant’s twelve-month tax penalty should be upheld in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-879

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

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

**Hearing Date:** November 7, 2023

**Decision Date:** November 17, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 7, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (7 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 7, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 50 in August 2022. (Exhibit 1).
3. The Appellant lived in Worcester County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$151,351. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of September through December 2022. The Appellant was assessed a one-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." The Appellant wrote on their Statement of Grounds, "I was covered through my employer which met requirements. See include[d] documents." (Exhibit 2).
7. The Appellant also included a MA Form 1099-HC showing that they had insurance meeting MCC requirements for the months of January through August 2022.
8. A hearing on the Appellant's appeal took place telephonically on November 7, 2023. (Exhibit 3). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$151,351 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$151,351, could have afforded to pay \$1009 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 and above could have spent 8% of their earnings on health insurance; 8% of \$151,351 is \$12,108, and one-twelfth of \$12,108 is \$1009.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 50 living in Worcester County in January 2022, cost \$422 per month.
13. The Appellant testified that they were released from their job in August 2022.

14. The Appellant testified that they thought they had health insurance through their employer from January through September 2022 because they had a medical appointment in September 2022 that was covered by their health insurance. The Appellant testified that they did not have any documentation of this appointment or of their health insurance coverage in September 2022.
15. The Appellant testified that they received unemployment compensation after they were released from their job in August 2022 and for the remainder of 2022.
16. The Appellant testified that they were unable to afford health insurance after they were released from employment because their income from unemployment compensation was less than half of their previous income from employment.
17. The Appellant testified that their former employer offered health insurance through COBRA, but the monthly premium was \$854.92, which they could not afford.
18. The Appellant testified that their annual salary from their former job was \$75,000 and that they received \$774 per week in unemployment compensation.
19. The Appellant testified that their AGI of \$151,351 came from several sources: employment, a settlement from a motorcycle accident, and a 401(k) account that they cashed out after losing their job.
20. The Appellant testified that they could not remember the amount of income that derived from each source, but that they believed that they received approximately \$10,000 from the accident settlement after paying legal fees and medical bills.
21. The Appellant testified that they used the rest of their accident settlement to pay off some credit card bills.
22. The Appellant testified that they used the funds from their 401(k) account to pay a loan they had taken out against their 401(k) and to pay off a couple of other things.
23. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1650 for a mortgage; \$110 for mortgage insurance; \$200 for electricity; \$20-30 for water; \$200 for oil; \$120 for cable/Internet; \$300 for a car payment; \$100 for gas; \$80 for phone; \$400-500 for food and household supplies; and \$60 for dental insurance.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a one-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of September through

December 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the “individual mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 10.

Second, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$1,009 per month for insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards that was available to the Appellant on the private market cost \$422 per month. Findings of Fact Nos. 11 and 12. However, I find that such insurance was not actually affordable to the Appellant because the Appellant suffered a hardship. Although the Appellant’s AGI in 2022 was \$151,351, the Appellant credibly testified that portions of this income derived from liquidating a 401(k) account and the receipt of an accident settlement and that the Appellant used the 401(k) and accident proceeds to pay off debt. Findings of Fact Nos. 19-22. The Appellant further credibly testified that they were released from employment in August 2022 and collected unemployment compensation for the remainder of the year. Finding of Fact No. 15. Given that the Appellant did not earn income from September through December 2022 and that they used their 401(k) and accident settlement proceeds to pay debt, I find that the Appellant suffered a hardship and that if they had purchased health insurance in the months of September through

December 2022, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

Third, I find that affordable health insurance meeting MCC standards was not available to the Appellant through employment for the months of September through December. The Appellant testified that they could have obtained health insurance through COBRA but that the monthly premium would have been \$854.92. Finding of Fact No. 17. For the reasons stated in the paragraph immediately above, I find that that such insurance was not affordable to the Appellant.

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

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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:   1        Number of Months Assessed:   0  

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

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

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

Hearing Officer

cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-880

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

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

**Hearing Date:** November 7, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 7, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 7, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 30 in August 2022. (Exhibit 1).
3. The Appellant lived in Hampden County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$36,340. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of January through September 2022. The Appellant was assessed a six-month tax penalty for 2022. (Exhibit 1).
6. The Appellant did not check off any boxes on their Statement of Grounds for Appeal. The Appellant provided a Form MA 1099-HC showing that they had health insurance for the months of November and December in 2022. (Exhibit 2).
7. A hearing on the Appellant's appeal took place telephonically on November 7, 2023. (Exhibit 3). The Appellant appeared at the hearing.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$36,340 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$36,340, could have afforded to pay \$151 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$36,340 is \$1,817, and one-twelfth of \$1,817 is \$151.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 29 living in Hampden County in January 2022, cost \$295 per month.
12. The Appellant testified that they came to the United States from Tanzania in 2020 and were not familiar with the American healthcare system and did not know that it was mandatory to have health insurance in Massachusetts.
13. The Appellant testified that they worked at a warehouse in 2021 and did not have health insurance because they missed the open enrollment period.

14. The Appellant testified that they began attending a community college in October 2021 and that the college required that they have health insurance. The Appellant testified that to fulfill this requirement, they purchased health insurance from a company in Pennsylvania and paid for the insurance on a monthly basis.
15. The Appellant testified that in 2022, they paid for this health insurance from January to April 2022. The Appellant testified that they left their warehouse job in May 2022.
16. The Appellant testified that they began working as a substitute teacher at a public school in August 2022 and obtained health insurance through that job. The Appellant testified that they remain enrolled in this insurance.
17. The Appellant testified that when they prepared their taxes for 2022, they contacted the health insurance company from which they purchased insurance from January to April 2022, and the company told them that it did not provide documentation of health insurance enrollment for tax purposes.
18. The Appellant testified that they did not know that they might have been eligible for subsidized insurance. The Appellant testified that a professor told them that they might be eligible for MassHealth and that they applied for MassHealth. The Appellant testified that they received a letter stating that they were ineligible for MassHealth because they had not supplied certain documents.
19. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$950 for rent from January and February, \$1350 for rent in March, and \$770 for rent from April through December; \$400 per month for utilities in January through March; \$104 for cable and Internet; \$108 for phone; \$135-179 per month for car insurance; and \$580 for food (based on an estimate of \$128-140 per week).
20. The Appellant testified that they did not enroll in their employer's health insurance in January 2022 because they had already enrolled in the monthly health insurance and believed that health insurance was adequate.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a six-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of January through September 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance



coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector’s regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant theoretically might have had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s AGI was less than 300% of the Federal Poverty Level. Finding of Fact No. 9. However, I find that the Appellant effectively did not have access to such insurance because they credibly testified both that they were unfamiliar with the American healthcare system and that they applied for, but did not receive, MassHealth. Findings of Fact Nos. 12 and 18. I find that these two factors – the Appellant’s lack of knowledge of the American healthcare system and the rejection of their application by MassHealth – would have effectively blocked the Appellant from pursuing subsidized coverage. They were not familiar with the health insurance landscape, and, based on the rejection of their application by MassHealth, they would have reasonably believed that they were not eligible for assistance.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$151 per month for insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards that was available to the Appellant on the private market cost \$295 per month. Findings of Fact Nos. 10 and 11.

Third, I find that affordable health insurance meeting MCC standards was not available to the Appellant through employment for the months in which they were not insured. The Appellant testified that they were employed at the warehouse until May 2022 and that they did not enroll in health insurance through their employer in January 2022 because they believed they already had adequate health insurance. Findings of Fact Nos. 15 and 22. I find that the Appellant had a reasonable belief that they had adequate health insurance and that that belief effectively blocked them from accessing their employer’s health insurance during open enrollment, including any health insurance that might have

been available through COBRA, for the months in which they were uninsured. I note that the Appellant testified that they enrolled in health insurance when they began working as a substitute teacher in a public school in August 2022 and that they remain enrolled in such health insurance. Finding of Fact No. 16.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's six-month tax penalty in its entirety because the Appellant did not have effective access to affordable health insurance through a government-subsidized program, the private market, or employment. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-881

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

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

**Hearing Date:** November 7, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 7, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 7, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 31 in May 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$38,212. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." The Appellant also submitted a letter stating that they lost their job in 2022, that their new job had lower hours, and that they had a rent increase. The Appellant further stated that they were unable to pay for health insurance and pay their bills and feed themselves. (Exhibit 2).
7. A hearing on the Appellant's appeal took place telephonically on November 7, 2023. (Exhibit 3). The Appellant appeared at the hearing.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$38,212 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$38,212, could have afforded to pay \$159 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$38,212 is \$1,910, and one-twelfth of \$1,910 is \$159.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 30 living in Middlesex County in January 2022, cost \$277 per month.
12. The Appellant testified that they did not have access to health insurance through employment. The Appellant testified that they worked at two different restaurant jobs in 2022 and that they did not work enough hours at either job to be eligible for health insurance. The Appellant testified that their hours fluctuated at these jobs.

13. The Appellant testified that they believed that they explored the possibility of getting insurance through MassHealth during open enrollment in 2021 and that they received a monthly quote of \$300, which the Appellant testified they could not have afforded.
14. The Appellant testified that they were enrolled in MassHealth in 2020, during the COVID-19 pandemic. The Appellant testified that in May of 2023 or thereabouts, after they had filed their taxes, they received a communication from MassHealth telling them that they were reinstated in MassHealth. The Appellant testified that they believed that the reinstatement was retroactive and also covered 2021 and 2022. The Appellant testified that they submitted a request for documentation that they are covered by MassHealth, but they have not yet received this documentation.
15. The Appellant testified that they estimated they had the following monthly expenses in 2023: \$1300 for rent; \$110 for cable and Internet; \$200 for car payment; \$150 for car insurance; \$600 for gas; \$90 for phone; and \$700 for food and household supplies.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the

Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they did not work enough hours to be eligible for health insurance at their places of employment. Finding of Fact No. 12.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$159 per month for insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan meeting MCC standards that was available to the Appellant on the private market cost \$277 per month. Findings of Fact Nos. 10 and 11.

Third, I find that the Appellant theoretically might have had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was less than 300% of the Federal Poverty Level. Finding of Fact No. 9. However, I find that the Appellant effectively did not have access to such insurance because they credibly testified that they contacted what they believed to be MassHealth and were told that the monthly premium for health insurance would be over \$300. Finding of Fact No. 13. As indicated above, according to Table 3 of the Schedule HC, the Appellant could only have afforded to pay \$159 per month for insurance, so a premium in excess of \$300 would have been unaffordable. Finding of Fact No 10. I find that, based on the Appellant's conversation with what they believed to be MassHealth, the Appellant had a reasonable belief that they were not eligible for insurance at a lower cost and that this belief effectively blocked them from further pursuing the possibility of government-subsidized insurance. As such, I conclude that the Appellant effectively did not have access to affordable health insurance through a government-subsidized program.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance through a employment, the private market, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

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

Hearing Officer

cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-901

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 28, 2023

### **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 20, 2023, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

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. She did not have health insurance in 2022. She resided in Suffolk County in 2022. (Testimony, Ex. 2)
2. Prior to 2022, the last time the appellant had health insurance was in 2021 when she was insured under her parents' plan. (Testimony)
3. The appellant moved to Massachusetts from North Carolina in 2019 to attend college which she left in 2020 due to the pandemic. She was employed for most of 2021 but left her job in October due to issues in the workplace. She was unemployed for approximately one month thereafter during which time she used all her savings and borrowed money from her roommates to cover her expenses. (Testimony)
4. The appellant began a new job in November, 2021, where she is still employed. The employer does not offer health insurance. (Testimony)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.



5. The appellant was not aware of the individual mandate in Massachusetts and did not investigate any health insurance options for herself for 2022. She did not become aware of the requirement to obtain insurance until she prepared her 2022 tax returns during the early part of 2023. (Testimony)
6. The appellant has enrolled in health insurance for 2024 which begins on January 1, 2024. (Testimony)
7. The appellant reported an adjusted gross income of \$32,788.00 on her 2022 federal tax return, and reported that she was single with no dependents. (Ex. 2)
8. In 2022, the appellant had regular monthly expenses of approximately \$2128.00 for rent which included heat and hot water (\$900.00), electricity (\$88.00), internet service (\$50.00), public transportation pass (\$90.00), and food (\$1000.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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 2022 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she stated in part that after she left her job in 2021, she used all her savings to cover her expenses and had no money to cover the cost of health insurance.

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 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 she had health insurance under her parents’ plan in 2021. She testified that she was employed for part of 2021 and left her job in October. She testified that she was unemployed for the following month and used all her savings as well as money she borrowed from her roommates to cover her expenses. She testified that she began a new job in November, 2021, where she is still employed, and the employer did not offer health insurance. She testified that she did not become aware of the individual mandate until she prepared her 2022 tax returns in the early part of 2023. Finally, she testified that she has enrolled in insurance for 2024.

The evidence provided by the appellant established that her income for 2022, \$32,788.00, was less than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 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 \$32,201.00 and \$38,640.00 is deemed to be able to afford a monthly premium of \$136.62 (5.00% of \$32,788.00/12). Table 4 of the Premium Schedule indicates that a 23-year-old individual (the age of the appellant in 2022) in Suffolk County (where the appellant resided in 2022) could have purchased private health insurance for \$277.00 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 2022.

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 \$136.62 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 2022. 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 2022 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 2022, she incurred basic monthly expenses of approximately \$2128.00. Although those expenses were less than her regular monthly pre-tax income of approximately \$2732.00, the difference of \$604.00 between income and expenses is inadequate to cover a subsidized insurance premium of \$136.62/month, particularly in light of unanticipated expenses which typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2022 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-902

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 29, 2023

### **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 20, 2023, and testified under oath. His mother appeared as a witness and also testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2022

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 25-years-old, is single and does not have children. He did not have health insurance in 2022. (Testimony, Ex. 2)
2. Prior to 2022, the last time the appellant had health insurance was in 2021 when he had student health insurance for half the year. He did not pay a penalty for the portion of the year that he was uninsured. (Testimony)
3. The appellant was employed on a part-time basis from January through the end of October, 2023, and was not eligible for health insurance due to his part-time status. Throughout most of that period, he believed that his employer would give him more hours which would qualify him for employer-provided insurance. (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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant filed an application for health insurance with MassHealth in or around February, 2022. In October, 2022, he was advised that he did not qualify because his income was too high. (Testimony)
5. The appellant became a full-time employee at the end of October, 2022, but was not eligible to enroll in employer insurance for the remainder of the year. He has been enrolled in employer insurance since January 1, 2023. (Testimony)
6. The appellant reported an adjusted gross income of \$33,810.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2022 for “other” reasons.

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 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 he had student health insurance for half of 2021 and did not pay a penalty for the months during which he was uninsured. He testified that he was employed on a part-time basis from January through the end of October, 2022, and was not eligible for health insurance due to his part-time status. He testified that he believed he would be given more hours during that period and would become eligible for employer insurance. He testified that he applied for insurance through MassHealth in or around February and was notified at the end of October that he did not qualify because his income was too high. He testified that he became a full-time employee at the end of October, but was not eligible to enroll in employer insurance for the remainder of the year. Finally, he testified that he has been enrolled in employer insurance since January 1, 2023.

The appellant offered credible testimony that he believed he would be offered more hours in 2022 and would become eligible for employer health insurance. He also testified that he applied for insurance through MassHealth and was notified some seven months later that he did not qualify because his income was too high. It is somewhat difficult to believe that it took that long for a decision, but it is not beyond the realm of possibility. Had he received notice earlier during the year, he could have applied for insurance through the Health Connector where he should have been eligible for subsidized insurance if he met all other eligibility criteria. Under the circumstances, he will be given the benefit of the doubt given his reasonable reliance on the expectation of increased hours and his effort to obtain insurance through MassHealth. Furthermore, he had student health insurance for part of 2021 and has been enrolled in employer insurance since January, 2023, thereby demonstrating that the mandate to obtain insurance has not been lost on him.

Based on the foregoing, the appellant’s request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2022 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-903

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 30, 2023

### **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 20, 2023, 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—2022

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 34-years-old, is single and does not have children. He did not have health insurance in 2022. He resided in Franklin County in 2022. (Testimony, Ex. 2)
2. The appellant has never had health insurance and has been assessed a penalty for being uninsured every year since the individual mandate became effective in Massachusetts in 2007. He previously filed appeals of the penalty for the 2018 and 2020 tax years, but did not submit the requisite documents to the Department of Revenue and did not pursue the appeals any further. (Testimony, Ex. 2)
3. The appellant was employed in 2022, but the employer did not offer health insurance. He investigated health insurance options on the Health Connector website and determined that he would not be able to afford the cost. (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 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant has not enrolled in health insurance in 2023. He plans to investigate his eligibility for insurance through the Health Connector for 2024. (Testimony)
5. The appellant lived with his girlfriend in 2022 and shared expenses with her. She paid for electricity and had a car which helped him with his transportation needs. (Testimony)
6. The appellant reported an adjusted gross income of \$31,562.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2022, the appellant had regular monthly expenses of approximately \$1615.00 for rent (\$750.00), heat averaged over twelve months (\$125.00), internet service (\$120.00), cell phone (\$120.00), and food (\$500.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2022 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 2022 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 never had health insurance since the individual mandate became effective and has been assessed a penalty every year for being uninsured. He testified that he was employed in 2022, but his employer did not offer health insurance. He testified that he investigated health insurance options on the Health Connector website and determined that he could not afford the cost. Finally, he testified that he planned to investigate insurance options for 2024 through the Health Connector.

The evidence provided by the appellant established that his income for 2022, \$31,562.00, was less than 300% of the federal poverty level (FPL), which for 2022 was \$38,640.00 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 \$25,761.00 and \$32,200.00 is deemed to be able to afford a monthly premium of \$110.47 (4.20% of \$31,562.00/12). Table 4 of the Premium Schedule indicates that a 33-year-old individual (the age of the appellant in 2022) in Franklin County (where the appellant resided in 2022) could have purchased private health insurance



for \$311.00 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 2022.

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 \$110.47 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 2022. 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 2022 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 in 2022 he incurred basic monthly expenses of approximately \$1615.00. Those expenses were less than his regular monthly pre-tax income of approximately \$2630.00, thereby making a subsidized insurance premium of \$110.47 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1015.00 per month is not a panacea, it does not appear on its face that the payment of \$110.47 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded subsidized health insurance and failed to establish that 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 has never had health insurance and has paid a penalty every year since the individual mandate was enacted. As such, he does not appear particularly motivated to change his mind. It is hoped that if the penalty is waived in full and he sees that the cost of insurance may be more affordable than previously thought, he will be incentivized to purchase it for the coming year. At the same time, he should understand that this extension of leniency is for this year only and he should not rely on a similar extension if he is assessed and appeals a penalty in the future.

Based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2022, 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-907

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

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

**Hearing Date:** November 21, 2023

**Decision Date:** November 28, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a married person filing jointly with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 21, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 21, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a married person filing jointly with no dependents claimed. (Exhibit 1).
2. The Appellant turned 44 in January 2022, and the Appellant's spouse turned 47 in March 2022. (Exhibit 1).
3. The Appellant and their spouse lived in Norfolk County in 2022. (Exhibit 1).

4. According to the Appellant and their spouse's Schedule HC, the Appellant and their spouse's federal Adjusted Gross Income ("AGI") for 2022 was \$84,400. (Exhibit 1).
5. According to the Appellant and their spouse's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
6. According to the Appellant and their spouse's Schedule HC, the Appellant's spouse had health insurance that met Massachusetts' MCC requirements throughout 2022 and was not assessed a tax penalty. (Exhibit 1).
7. The Appellant did not check a box on their Statement of Grounds for Appeal. The Appellant submitted a letter with their Statement of Grounds for Appeal in which they said they worked at multiple part-time human services jobs, none of which provided health insurance. The Appellant also stated in the letter that they could not afford private coverage or coverage through the Health Connector and that the process of obtaining subsidized coverage in Massachusetts is grueling and punishing. (Exhibit 2).
8. A hearing on the Appellant's appeal took place telephonically on November 21, 2023. (Exhibit 3). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant and their spouse's AGI of \$84,400 was more than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant and their spouse, who filed their federal tax return as married persons filing jointly with no dependents and claimed an adjusted gross income of \$84,400, could have afforded to pay \$562 per month for health insurance. The calculation is as follows: Table 3 states that a married couple filing jointly with an income of \$69,681 and above could have spent 8% of their earnings on health insurance; 8% of \$84,400 is \$6,752, and one-twelfth of \$6,752 is \$562.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, had they purchased it as an individual, would have cost \$318 per month. Also according to Table 4 of the Schedule HC for 2022, the least expensive

health insurance plan available on the private market to the Appellant and their spouse as a married couple would have cost \$727 per month, given that they were a married couple living in Norfolk County and that the couple's older spouse was 46 in January 2022.

13. The Appellant testified that their spouse is on MassHealth because they had a disabling stroke 11 years ago. The Appellant testified that they believe their spouse paid approximately \$200 per month for MassHealth in 2022.
14. The Appellant testified that their spouse works and has access to health insurance through employment and that the cost to the Appellant and their spouse for this insurance would have been \$200 per week (or \$866 per month) in 2022.
15. The Appellant testified that they earned approximately \$35,000 to \$45,000 in 2022 and that they worked four part-time jobs, none of which offered health insurance. The Appellant testified that their income was not consistent.
16. The Appellant testified that: (1) they worked three times per week as a respite caregiver for an adult with autism; (2) they worked two times per week during the school year at an after-school program; (3) they worked two times per week as a caregiver for a high functioning adult with a brain injury; and (4) they worked at a summer program for visually impaired college student. The Appellant testified that they also occasionally worked on landscaping jobs.
17. The Appellant testified that they intend to give up some of these jobs because they need to find a job with health insurance.
18. The Appellant testified that they estimated they and their spouse had the following monthly expenses in 2022: \$1300 for mortgage; \$583 for water, sewer, and trash (based on \$7,000 per month estimate); \$200-300 for heat and electricity; \$200 for the Appellant's phone and for Internet; \$300 for car insurance; \$300 for gas; and \$400 for food.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that none of their part-time jobs offered health insurance. Finding of Fact No. 15. I further find that the Appellant did not have access to affordable health insurance meeting MCC standards through their spouse's employment because the Appellant credibly testified that such insurance would have cost \$866 per month. Finding of Fact No. 14. According to Table 3 of the Appellant's Schedule HC, the Appellant and their spouse could only have afforded to pay \$562 per month for insurance, so the insurance offered by the Appellant's spouse's employer was not affordable to them. Finding of Fact No. 11.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant and their spouse's AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 10.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC requirements through the private market, but that this access was not actually affordable to the Appellant because they suffered a hardship. As stated earlier, according to Table 3 of the Schedule HC, the Appellant and their spouse could have afforded to pay \$562 per month for health insurance. Finding of Fact No. 11. The Appellant testified that their spouse paid approximately \$200 per month for MassHealth in 2022, which left \$362 per month for the Appellant to have spent on health insurance. Finding of Fact No. 13. According to Table 4 of the Schedule HC, the least expensive health insurance plan that the Appellant could have purchased as an individual on the private market cost \$318 per month, which was therefore theoretically affordable for the Appellant. Finding of Fact No. 12. However, I find that this insurance was not actually affordable to the Appellant because the Appellant credibly testified that their income, which derived from four part-time jobs, some of which were seasonal, was inconsistent. Finding of Fact No. 15. Given the fluctuation in the Appellant's income, I find it likely that in some months, they could not have actually afforded to spend \$318 per month on health insurance and that had they done so, they likely would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

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

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

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

Hearing Officer

cc:      Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-909

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

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

**Hearing Date:** November 21, 2023

**Decision Date:** November 28, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 21, 2023. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (10 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 21, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 20-578

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 31 in August 2022. (Exhibit 1).
3. The Appellant lived in Essex County in 2022. (Exhibit 1).



4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$51,368. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of February through December 2022. The Appellant was assessed an eight-month tax penalty for 2022. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant also submitted a letter stating that their income is not sufficient to cover their expenses and that they work as a server/bartender and do not receive health insurance through employment. The Appellant stated in their letter that they had the following monthly expenses: \$2344 for rent/parking/sewer (receipt attached for March 2023); \$423.06 car payment (October 16, 2022 receipt attached); \$92.21 car insurance (March 22, 2023 receipt attached); \$350 for MTBA (\$17.50 ticket attached); \$200 for gas; and \$300 for food. (Exhibit 2).
8. A hearing on the Appellant's appeal took place telephonically on November 21, 2023. (Exhibit 3). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$51,368 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$51,368, could have afforded to pay \$325 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$45,081 and \$51,520 could have spent 7.6% of their earnings on health insurance; 7.6% of \$51,368 is \$3,903, and one-twelfth of \$3,903 is \$325.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 30 living in Essex County in February 2022, cost \$277 per month.

13. The Appellant testified that they worked as a bartender at a number of jobs throughout 2022. The Appellant testified that they had difficulty remembering which jobs they worked at in 2022, as opposed to 2023.
14. The Appellant testified that they were not offered health insurance at any of their jobs and that restaurant owners often schedule bartenders to work less than the number of hours that would make them eligible for insurance.
15. The Appellant testified that their income fluctuated based on the amount of tips they earned. The Appellant testified that they might have been unemployed for a couple of weeks in 2022 but that they were not unemployed for a significant amount of time.
16. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$2300 for rent; \$200 for electricity during the summer; \$130 for cable and Internet; \$423 for a car payment; \$110 for car and rental insurance; \$200 for gas; and \$300 for food.
17. The Appellant testified that they accrued \$5,600 in credit card debt on living expenses during the pandemic, which they are still paying down.
18. The Appellant testified that they could not afford to pay for health insurance in addition to their other living expenses.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of an eight-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of February through December 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in

coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they were not offered health insurance at any of their jobs. Finding of Fact No. 14.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's income exceeded 300% of the FPL. Finding of Fact No. 10.

Third, I find that the Appellant theoretically had access to affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to spend \$325 per month on health insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased health insurance on the private market for \$277 per month. Findings of Fact Nos. 11 and 12. However, I find that the Appellant suffered a hardship such that the health insurance available on the private market was not actually affordable to them. The monthly living expenses listed by the Appellant, most of which were substantiated with receipts, totaled \$3,663 per month, or \$43,956 per year, which likely exceeded the Appellant's after-tax income and did not leave room for the Appellant to purchase health insurance. Finding of Fact No. 16. Further, the difference between what the Appellant theoretically could have afforded to pay for health insurance (\$325) and what was available to them on the private market (\$277) was only \$48, and the Appellant credibly testified that their bartending income fluctuated. Findings of Fact Nos. 11, 12, and 15. Thus, it also seems likely that in the months when the Appellant's income was lower, they would not have been able to afford health insurance, and that if they had purchased it, they would have experienced a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's eight-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance through employment or a government-subsidized program, and the Appellant suffered a hardship such that they could not afford to purchase health insurance meeting MCC standards on the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

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

Hearing Officer

cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-910

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 21, 2023

**Decision Date:** November 27, 2023

### **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 Authorized Representative appeared at the hearing, which was held telephonically on November 21, 2023. The procedures to be followed during the hearing were reviewed with the parties and the Appellant was 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 and the following documents which were admitted into evidence:

- Exhibit 1: The Authorized Representative for Appeals Form signed by the Appellant on November 4, 2023.
- Exhibit 2: Health Connector Appeals Unit Notice of Hearing dated October 17, 2023.
- Exhibit 3: Appeal Case Information from Schedule HC 2022.
- Exhibit 4: Statement of Grounds for Appeal, with attachments, signed by the Appellant on March 31, 2023.
- Exhibit 5: A copy of the Appellant's 1099-HC for tax year 2022 date stamped November 21, 2023.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 23 in February 2022, filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 3).
2. The Appellant was a resident of Suffolk County in 2022 (Exhibit 3).
3. According to the information on the Appellant's Schedule HC 2022, the Appellant did not have health insurance that met minimum essential coverage for any months of tax year 2022 (Exhibit 2).
4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in March, 2023 (Exhibits 2, 3, 4).
5. The Appellant's Federal Adjusted Gross Income for 2022 was \$60,981 (Exhibit 3).

6. The Appellant explained that they were covered under a parent’s employer sponsored health insurance in tax year 2022 (Appellant Testimony).
7. The Appellant submitted a copy of Form 1095-B with their appeal request verifying that the Appellant had health insurance through a parent for all months in tax year 2022 (Exhibit 4).
8. Just prior to the Hearing, the Appellant submitted a copy of Form 1099-HC for tax year 2022 verifying that the Appellant had health insurance that met Massachusetts minimum creditable coverage standards for all months of tax year 2022 (Exhibit 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.

The Appellant filed their 2022 income tax return as a single person with no dependents. According to the information in the Appellant’s Schedule HC 2022, the Appellant did not have health insurance in tax year 2022 and consequently was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty in March 2023.

The Appellant testified that they had health insurance coverage under a plan provided by their parent’s employer. The Appellant’s credible testimony was supported by documentation including the 1099-HC 2022 submitted just prior to the hearing held on November 21, 2023. The Appellant should not be subject to a tax penalty for tax year 2022.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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: \_\_\_\_12\_\_\_\_      Number of Months Assessed: \_\_0\_\_\_\_

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

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

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

Cc: Connector Appeals Unit

S.F.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-911

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

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

**Hearing Date:** November 21, 2023

**Decision Date:** November 30, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellants are married persons filing jointly with no dependents. Appellant #1 appeared at the hearing, which was held by telephone, on November 21, 2023. The Appellant speaks Spanish, so an interpreter was used to communicate during the hearing. The procedures to be followed during the hearing were reviewed with Appellant #1, who was sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant #1. The hearing record consists of Appellant #1's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Statement of Grounds for Appeal (4 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 21, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 21-2003 (4 pages)
- Exhibit 4: Final Appeal Decision PA 17-521 (3 pages)
- Exhibit 5: Final Appeal Decision PA 16-614 (5 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly with no dependents. (Exhibit 1).
2. Appellant #1 turned 62 in August 2022, and Appellant #2 turned 60 in March 2022. (Exhibit 1).



3. The Appellants lived in Essex County in 2022. (Exhibit 1).
4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2022 was \$61,799. (Exhibit 1).
5. According to the Appellants' Schedule HC, the Appellants did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellants were both assessed 12-month tax penalties. (Exhibit 1).
6. The Appellants did not check a box on their Statement of Grounds for Appeal. (Exhibit 2).
7. A hearing on the Appellants' appeal took place telephonically on November 21, 2023. (Exhibit 3). Appellant #1 appeared at the hearing.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellants' AGI of \$61,799 was greater than 300% of the Federal Poverty Level, which was \$52,260 for a family of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellants, who filed their federal tax return as a married couple filing jointly with no dependents and claimed an adjusted gross income of \$61,799, could have afforded to pay \$391 per month for health insurance. The calculation is as follows: Table 3 states that a married couple filing jointly whose 2022 AGI was between \$60,971 and \$69,680 could have spent 7.6% of their earnings on health insurance; 7.6% of \$61,799 is \$4,696, and one-twelfth of \$4,696 is \$391.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a married couple whose older member was 61 and living in Essex County in January 2022 could have purchased cost \$869 per month.
12. Appellant #1 testified that Appellant #1 and Appellant #2 come from the Dominican Republic and are not lawfully present in the United States.
13. Appellant #1 testified that they work preparing metal parts and have had the same job for 24 years. Appellant #1 testified that their employer offers health insurance and that it would have cost Appellant #1 \$106 per week just for Appellant #1 and \$250 per week for both Appellants to enroll in such insurance.

14. Appellant #1 testified that Appellant #2 works in a kitchen, preparing rice and cleaning, and has had the same job for 24 years. Appellant #1 testified that there are around 10-12 employees at Appellant #2's job and that Appellant #2 told Appellant #1 that their employer has never offered insurance to Appellant #2.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellants' appeal from the DOR's assessment of a twelve-month tax penalty for both Appellants because the Appellants' tax forms indicated that Appellants did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellants through a government-subsidized program, through employment, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellants because the Appellants experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through a government-subsidized program because their AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 10.

Second, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through employment. Appellant #1 testified that they could have obtained health insurance through employment that would have cost \$106 per week just for Appellant #1 and \$250 per week for both Appellants. Finding of Fact No. 14. According to Table 3 of the Schedule HC, the most the Appellants could have afforded to pay for insurance was \$391 per week. Finding of Fact No. 11. Thus,

the insurance offered by Appellant #1's employer was unaffordable. Appellant #1 further testified that Appellant #2's employer never offered them health insurance. Finding of Fact No. 15.

Third, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through the Health Connector because the Appellants are not lawfully present in the United States. Finding of Fact No. 13; 45 CFR 155.305(a)(1). In addition, the health insurance available on the private market would not have been affordable to the Appellants. Again, according to Table 3 of the Schedule HC, the Appellants could have afforded to spend \$391 per month on health insurance. Finding of Fact No. 11. However, according to Table 4 of the Schedule HC, the least expensive health insurance meeting MCC standards that was available on the private market to a married couple living in Essex County whose older member was 61 cost \$869 per month and was therefore would not have been affordable to the Appellants. Finding of Fact No. 12.

Reviewing the totality of the evidence, I conclude that Appellants' tax penalties should be waived in their entirety because the Appellants did not have access to affordable health insurance meeting MCC requirements through a government-subsidized program, through employment, or through the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

## **PENALTY ASSESSED**

### Appellant #1

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

### Appellant #2

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

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

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

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

Hearing Officer

cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-939

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** November 15, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 15, 2023. 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 18, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 21, 2023.
- Exhibit 4: The Appellant's letter in support of the appeal with an attachment.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 39 in January 2022, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$120,181 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022. The Appellant filed an appeal of the assessment in March 2023 citing 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 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$120,181 could afford to pay \$801 per month for health insurance. In accordance with Table 4, the Appellant, age 39, living in Hampden County, could have purchased private insurance for \$319 per month (Schedule HC for 2022). Private insurance was affordable for the Appellant.
8. The Appellant testified that because they were employed on a per diem basis, their employer did not offer health insurance. The Appellant was not financially eligible for ConnectorCare in tax year 2022 because their income of \$120,181 exceeded 300% of the federal poverty level which was \$38,640 for a household of one (Table 2 of Schedule HC-2022).
9. The Appellant testified that they were employed on a per diem basis and did not have guaranteed hours. The Appellant said that they did not want to purchase health insurance and default on payments if they were not given sufficient hours. The Appellant verified their status as a per diem employee (Exhibit 4 and Appellant Testimony).
10. The Appellant did not have rent or mortgage expenses in tax year 2022. The Appellant's monthly living expenses of \$3,342 included: property taxes-\$517; gas and electric-\$200; car loan-\$800; car insurance-\$208; gasoline-\$433; home insurance-\$167; telephone-\$150 and food \$867 (Appellant Testimony).
11. The Appellant testified that they had significant educational expenses for their master's degree program in tax year 2022. The Appellant said that they paid \$6,000 quarterly tuition and an additional \$1,000 each of two semesters for books and supplies. In addition, the Appellant said they pay \$2,000 in monthly credit card debt (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did not have health insurance for any months in tax year 2022. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal and checked the box indicating that purchasing health insurance would have caused the Appellant to experience a serious deprivation of food, shelter, clothing, or other necessities.

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 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$120,181 could afford to pay \$801 per month for health insurance. In accordance with Table 4, the Appellant, age 39, living in Hampden County, could have purchased private insurance for \$319 per month (Schedule HC for 2022). Private insurance was affordable for the Appellant in 2022.

The Appellant testified that they did not have access to employer sponsored health insurance in tax year 2022. The Appellant would not have been eligible for ConnectorCare because their income of \$120,181 exceeded 300% of the federal poverty level, which was \$38,640 for a tax household of one in 2022. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant argued that because they were employed on a per diem basis, they were not guaranteed a set income and did not want to purchase health insurance and default on the payments. Being a per diem employee does not establish financial hardship. 956 CMR 6.08.

The Appellant did not pay for rent or mortgage in tax year 2022. The Appellant testified to monthly living expenses of \$3,342 for property taxes, home insurance, utilities, car expenses and food. The Appellant testified to educational expenses of approximately \$2,167 and \$2,000 in credit card bills for unidentified expenses. Even if all the expenses are considered, given the Appellant's income of \$120,181 and the fact that the Appellant could have purchased private health insurance at a cost of \$319 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2022 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**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: PA22-940

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 15, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 15, 2023. 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 18, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, dated April 4, 2023.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 45 in September 2022, filed their 2022 Federal Income Tax return as a Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Hampshire County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$58,678 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2022 and consequently has been assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2023 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the



Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an annual adjusted gross income of \$58,678 could afford to pay \$364 per month for health insurance. In accordance with Table 4, the Appellant, age 45, living in Hampshire County, could have purchased private insurance for \$951 per month for a family plan (Schedule HC for 2022). Private insurance was not affordable for the Appellant in tax year 2022.
8. The Appellant testified that they were considered a parttime employee by their employer and health insurance was not offered (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$58,678 was greater than 300% of the federal poverty level, which was \$52,260 for a tax household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Exhibit 2).
10. In tax year 2022 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-2022 (Exhibits 2, 3 and Appellant Testimony).
11. The Appellant submitted copies of bills for rent, car insurance and utilities and testified that they could not afford to purchase insurance in tax year 2022. The Appellant also testified that their company closed for two months in tax year 2022 and they had no income during this period (Exhibit 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 2022 tax return as a Head of Household with one dependent claimed. The Appellant did not have health insurance for any months in tax year 2022 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 2022, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an adjusted gross income of \$58,678 could afford to pay \$364 per month for health insurance. In accordance with Table 4, the Appellant age 45 living in Hampshire County, could have purchased private insurance for \$951 per month (Schedule HC for 2022). Private insurance was not affordable for the Appellant in 2022.

The Appellant's employer did not offer employer sponsored health insurance in tax year 2022. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$58,678 was greater than 300% of the federal poverty level, which was \$52,260 for a tax household of two in 2022.

The Appellant had no affordable health insurance available to them in tax year 2022 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty for the Appellant 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 2022.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA22-941

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 15, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 15, 2023. 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 18, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 4, 2023.
- Exhibit 4: The Appellants' letter in support of the appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 26 in October, 2022 filed their Federal Income Tax return as a Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$57,399 (Exhibit 2).
4. The Appellant had health insurance for the period of January through August but was uninsured for the period of September through December in tax year 2022. The Appellant was assessed a one-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant, filing the Federal tax return as a Head of Household with one dependent claimed, with an annual adjusted gross income of \$57,399 could afford to pay \$356 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Suffolk County, could have purchased private insurance for \$716 per month for a family plan (Schedule HC for 2022). Private insurance was not affordable for the Appellant in 2022.
8. The Appellant testified that they did not have access to affordable employer sponsored health insurance in 2022. The Appellant was eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$57,399 was less than 300% of the federal poverty level, which was \$58,678 for a household of two in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant was enrolled in ConnectorCare for the period of January through August in tax year 2022 and paid a monthly premium of \$270 (Exhibit 2 and Appellant Testimony).
10. The Appellant testified that a very close relative passed away unexpectedly in September 2022 and the family had to pay for the funeral expenses, legal fees, and a flight to return the relative to their home territory for burial. The Appellant explained that the total cost was approximately \$10,000 and they paid most of it because they were the only person in the family who was employed. Other family members receive SSI and could not help (Appellant Testimony).
11. The Appellants' monthly living expenses of \$2,184 included: rent and utilities \$1,200; telephone-\$50; car insurance-\$300; gasoline-\$100; food-\$434 and life insurance \$100. The Appellant stated that purchasing health insurance would have caused them to experience a deprivation of food, shelter, and other necessities while attempting to pay the debt incurred due to the passing of their family member. I found the Appellant to be credible (Exhibits 3, 4 and 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 2022 tax return as a Head of Household with one dependent. The Appellant had health insurance for the period of January through August but did not have health insurance for the period of September

through December in tax year 2022. The Appellant has been assessed a one-month penalty. The Appellant filed an appeal in April 2023 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 2022, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed with an adjusted gross income of \$57,399 could afford to pay \$356 per month for health insurance. According to Table 4, the Appellant, age 26, living in Suffolk County, could have purchased a private family insurance plan for \$716 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant did not have access to affordable employer sponsored health insurance in tax year 2022. The Appellant was eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$58,678 for their household of two. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant was enrolled in a ConnectorCare plan for the period of January through August in tax year 2022. The Appellant testified that they were able to pay the monthly premium of \$270 until the death of a close family member in September 2022. The Appellant explained that they had to pay almost \$10,000 to cover the cost of funeral, legal and airline expenses to allow this relative to be buried in their home territory 956 CMR 6.08(1)(e)). The Appellant identified substantial monthly living expenses for the household and demonstrated that the cost of purchasing health insurance for the period of September through December would have caused the Appellant to experience a significant financial hardship in tax year 2022. The Appellant's one-month penalty is waived. See 956 CMR 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for the Spouse's failure to have health insurance.

**PENALTY ASSESSED**

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

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

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

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

cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-943

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** November 15, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on November 15, 2023. 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 18, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: The Statement of Grounds for Appeal, with attachments signed by the Appellant on April 4, 2023.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 30 in August 2022, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$55,420 (Exhibit 2).
4. The Appellant had insurance for the period of January through May but was uninsured for the period of June through December in tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2022. The Appellant filed an appeal of the assessment in April, 2023 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$55,420 could afford to pay \$369 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Middlesex County, could have purchased private insurance for \$277 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in 2022.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that the \$50,329 adjusted gross income figure does not adequately reflect their financial circumstances for the entire year. The Appellant said that for the period of January through May they had employer sponsored health insurance. The Appellant explained that they changed jobs in June and expected the new restaurant group to expand and provide health insurance. This did not happen as quickly as expected. The Appellant said that as of June they were only making \$16 per hour with pooled tips and as a result the Appellant could not afford to purchase insurance. The Appellant's credible testimony is supported by wage stubs submitted with the appeal request (Exhibit 3 and Appellant Testimony).
10. The Appellant's 2022 monthly living expenses of \$2,171 included: rent-\$900; electricity-\$40; heat-\$70; telephone-\$100; car insurance- \$119; gasoline-\$217; food \$325 and credit card payments-\$400 (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 January through May but was uninsured for the period of June through December in tax year 2022. Consequently, the Appellant has been assessed a four-month penalty. The Appellant filed an appeal in April 2023 citing financial hardship as the reason for their failure to have health insurance.

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$55,420 could afford to pay \$369 per month for health insurance. According to Table 4, the Appellant, age 30, living in Middlesex County, could have purchased a private insurance plan for \$277 month. See Schedule HC for 2022. Private insurance appeared affordable for the Appellant in tax year 2022.

The Appellant had access to employer sponsored health insurance for the period of January through May. The Appellant did not have access to employer sponsored insurance for the period of June through December in tax year 2022. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$38,640 for their household. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant testified credibly that their adjusted gross income figure of \$55,420 does not adequately reflect their income for the period of June through December in tax year 2022. The Appellant explained that they changed jobs expecting their new restaurant group to expand. Due to permitting and other problems this was delayed. The Appellant said that they were paid at a rate of \$16 per hour and had to pool tips with other employees. The Appellant submitted copies of wage stubs verifying their testimony. Given the Appellant's monthly living expenses of \$2,171, and the fact that the Appellant would have had to pay a minimum of \$277 for a private plan (See Table 4 Schedule HC 2022), the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship during the period of June through December in tax year 2022. The Appellant's four-month penalty is waived. See 956 CMR 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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:   4   Number of Months Assessed:   0  

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

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

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

cc: Health Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-950

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 27, 2023

### **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 20, 2023. 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 24, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 27, 2023
- Exhibit 4: Written Statement of Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-four years old and is single. She lives in Norfolk County, Massachusetts. Appellant works in the auto business.
2. Appellant had been homeless for many years. She lived out of her car. Appellant had suffered sexual molestation when she was a child which caused her trauma and alienation from her family.
3. Appellant did not have health insurance in 2022 and does not have health insurance in 2023. She is applying to the Health Connector in 2024.
4. The Appellant's monthly expenses totaled \$1,857.00, consisting of rent \$1,050.00, heat & light \$35.00, cell phone \$52.00, car insurance \$100.00, car gas \$120.00, food \$400.00, clothing \$150.00, entertainment \$200.00, toiletries \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
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 \$29,107.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Norfolk County for a 43 year old single person was \$318.00. The tables reflect that Appellant could afford \$101.87 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 had been homeless for many years. She lived out of her car. Appellant had suffered sexual molestation when she was a child which caused her trauma and alienation from her family.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$29,107.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$101.87 monthly for health insurance. See 2022 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 \$318.00 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 101.87 for health insurance coverage because of her income. Private insurance in the marketplace was \$318.00 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 2022. 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 2022 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-964

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 27, 2023

## **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 20, 2023. 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 24, 2023

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 fifty-six years old and is single. She lives in Barnstable County, Massachusetts. Appellant works in town government business.
2. Appellant's job of seventeen years was eliminated, and she applied to the Health Connector three days after the deadline in December 2021. Appellant called and someone told her that she was all set. Appellant made her payment online that went through. Several weeks later she received a check from the Health Connector returning her payment.
3. Appellant did have health insurance commencing September of 2022 and has insurance in 2023.
4. The Appellant did not submit a Statement of Grounds for Appeal-2022. However, her appeal should be heard under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will so decide her appeal under this ground.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$40,715.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Barnstable County for a 55 year old single person was \$435.00. The tables reflect that Appellant could afford \$252.77 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 job of seventeen years was eliminated and Appellant applied to the Health Connector three days late. Her online payment was accepted but returned.

The Appellant did not submit a Statement of Grounds for Appeal-2022 but should have appealed under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear this appeal under 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 2022, 150 percent of the FPL was \$19,320.00 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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$40,715.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$252.77 monthly for health insurance. See 2022 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 \$435.00 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 \$252.77 for health insurance coverage because of her income. Private insurance in the marketplace was \$435.00 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 2022. 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 2022 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_5\_\_\_      Number of Months Assessed: \_\_\_0\_\_\_

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

OR

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-965

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 27, 2023

### **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 20, 2023. 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 24, 2023

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 27, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-three years old and is single. She lives in Middlesex County, Massachusetts. Appellant works in town government business.
2. Appellant divorced her husband in 2021. Under the terms of the divorce Husband agreed to keep Appellant on his insurance coverage as she was suffering from cancer. Appellant was notified on August 5, 2022 by Husband's health insurance company that since husband did not notify the company of the divorce that the Appellant's coverage was terminated back to May 6, 2021 and that the Appellant and her husband had to pay back all of the amounts paid for the Appellant by the insurance company.
3. Appellant did have health insurance commencing August of 2022 and has insurance in 2023.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under "Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable" .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$80,375.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Middlesex County for a 42 year old single person was \$318.00. The tables reflect that Appellant could afford \$535.83 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Appellant's Husband was carrying the health insurance after their divorce in 2021. Appellant thought she was covered under the husband's plan of insurance until she was notified in August of 2022 that she

was not covered retroactively from May 2021 forward and had to pay back all expenses of Appellant from August 2021 to that date of August 2022.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable.”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 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 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$80,375.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$535.83 monthly for health insurance. See 2022 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 \$318.00 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 notified in August of 2022 that her insurance was being terminated retroactively to May of 2021 and that she had to pay back all of the outlay made by the insurance company for her health

related expenses. Appellant obtained health insurance in August 2022 after being informed of her termination. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2022. 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 2022 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-966

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 27, 2023

## **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 20, 2023. The procedures to be followed during the hearing were reviewed with the Appellant wife who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 24, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 9, 2023
- Exhibit 4: Prior Appeal for the year 2021

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-eight years old and is married. She lives in Hampshire County, Massachusetts.
2. Appellant's husband had several jobs in 2022 and could not cover his wife during these different jobs. Appellant had a part-time job which has now turned into a full-time job. Appellant's employer did not offer her health insurance
3. Appellants did have health insurance in 2022 starting in November and in 2023.
4. The Appellant's monthly expenses totaled \$3,660.00, consisting of rent \$1,000.00, heat & light \$200.00, internet & cable \$70.00, cell phone \$45.00, car payments \$595.00, car insurance \$100.00, car gas \$100.00, food \$300.00, credit card \$400.00, clothing \$150.00, entertainment \$200.00, toiletries \$250.00, personal loan \$250.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "Other. During 2022 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable" but should have applied under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear this appeal under both grounds
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
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 \$40,755.00 was less than \$52,260.00. The monthly premium for health insurance available on the private market in Hampshire County for a 28 year old married person with was \$590.00. The tables reflect that Appellant could afford \$210.56 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 had a part time job in 2022. Appellant’s husband had several jobs in 2022 and was not able to place Appellant on his health insurance in 2022.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable: Appellant should have also appealed under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear this appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$26,130.00 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 2 penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$40,755.00 in 2022, 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 2022 Massachusetts Schedule HC, Appellant could afford to pay \$210.56 Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$590.00 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 \$210.56 for health insurance coverage because of her income. Private insurance in the market place was \$590.00 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 2022. 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 2022 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-979

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 28, 2023

**Decision Date:** November 29, 2023

### **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 28, 2023. 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 25, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 11, 2023
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Additional Insurance Documents

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-three years old and is single. He lives in New York.
2. Appellant had insurance in 2022. Appellant had difficulty inputting into his tax return that he had health insurance during the full year of 2022. Appellant sent in his insurance card to the Health Connector and followed up by sending in a letter from his health insurance company indicating Appellant had health insurance from January 2016 through November 2023.
3. Appellant did have health insurance in 2022 and does have health insurance in 2023.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable” .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
6. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant’s income of \$29,107.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Norfolk County for a 43 year old single person was \$318.00. The tables reflect that Appellant could afford \$101.87 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 had insurance in 2022. Appellant had difficulty inputting into his tax return that he had health insurance during the full year of 2022. Appellant sent in his insurance card to the Health Connector and followed up by sending in a letter from his health insurance company indicating Appellant had health insurance from January 2016 through November 2023.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. *See* Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 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 2022 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 him in 2022. 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* 2022 Schedule HC Instructions and Worksheets, *supra*.

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

On these facts, I find that Appellant has shown that he had affordable health insurance during 2022. 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 2022 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-1190

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

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

**Hearing Date:** October 16, 2023

**Decision Date:** October 26, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant is a single person with no dependents. The Appellant appeared at the hearing, which was held by telephone, on October 16, 2023. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2020 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supplemental documentation provided by the Appellant (5 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 16, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 19-756, dated June 28, 2021 (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 57 in January 2020. (Exhibit 1).
3. The Appellant lived in Essex County in 2020. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2020 was \$25,703. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements in any month in 2020. The Appellant was assessed a twelve-month tax penalty for 2020. (Exhibit 1).
6. The Appellant did not check a box on their Statement of Grounds for Appeal, but instead handwrote, "Mandatory shutdown due to pandemic – not allowed to work for months." (Exhibit 2).
7. The Appellant attached to their Statement of Grounds a letter stating that there was no plan that offered what they wanted at an affordable rate.
8. Previously, the Appellant appealed a 12-month penalty assessed for 2019, which was upheld in a June 28, 2021 decision. In the decision, the hearing officer stated that the Appellant "made no effort in 2019 to find out how much coverage would cost . . ." (Exhibit 4).
9. A hearing on the Appellant's appeal took place telephonically on October 26, 2023. (Exhibit 3). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2020 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 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. The Appellant's AGI of \$25,703 was less than 300% of the Federal Poverty Level, which was \$37,470 for a single person in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2020, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$25,703, could have afforded to pay \$89 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2020 AGI was between \$24,981 and \$31,225 could have spent 4.2% of their earnings on health insurance; 4.2% of \$25,703 is \$1,079, and one-twelfth of \$1,079 is \$89.
13. According to Table 4 of Schedule HC for 2020, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a single person who was 56 and living in Essex County in January 2020 could have purchased cost \$432 per month.
14. The Appellant testified that they worked as a massage therapist in 2020.

15. The Appellant testified that they did not have a job in 2020 that offered health insurance.
16. The Appellant testified that because of the COVID-19 pandemic, they could not work for four to five months in 2020.
17. The Appellant testified that they could not afford health insurance in 2020 and that the state-required health insurance does not cover what they need, such as eye exams and dental expenses.
18. The Appellant testified that they did not collect unemployment compensation in 2020.
19. The Appellant testified that they remembered that they had the following monthly expenses in 2020: \$700 for rent and \$100 for food. The Appellant testified that they could not remember the amounts of their other basic living expenses, such as gas, car repairs, and food, and that they did not want to guess these expenses incorrectly.
20. The Appellant testified that they had provided their monthly expenses in an earlier Health Connector hearing. According to the decision in the Appellant's 2019 appeal, the Appellant's monthly expenses in 2019 totaled \$1,757. (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2020. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they did not have a job that offered health insurance. Finding of Fact No. 15.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$89 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$432 per month. Findings of Fact Nos. 12 and 13.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was lower than 300% of the Federal Poverty Level. Finding of Fact No. 11. However, I find that the Appellant suffered a hardship from March through December 2020 such that this health insurance was not in fact affordable to them. I take administrative notice of the fact that in 2020, the Commonwealth of Massachusetts intermittently shut down and/or reduced the allowable capacity of close contact personal services, such as massage therapists. As a result, the Appellant did not any receive income in some of those months and could not rely on having a steady income, due to the changing COVID-19 guidelines. It is likely that during some of these months, the purchase of health insurance, even through a government-subsidized program, would have caused the Appellant to experience a serious deprivation of food, shelter, clothing, or other necessities. I do not find that the Appellant suffered a hardship for the months of January and February; the Appellant has not provided sufficient evidence that they could not have afforded to purchase health insurance meeting MCC standard through a government-subsidized program during those months.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's tax penalty for the months of March through December. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 608(1)(e).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 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:   2



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: PA20-1268

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** October 20, 2023  
**Decision Date:** November 10, 2023

### **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 20, 2023. 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 November 15, 2022
- Exhibit 3: Correspondence from Health Connector, dated September 29, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 26 years old in 2020 (Exhibit 1).
2. Appellant moved to Worcester County Massachusetts in February 2020 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a part year Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2020 of \$30,933 (Exhibit 1).
5. Appellant moved to Massachusetts for a new job (Testimony of Appellant).
6. Appellant's new position was a sales job and Appellant's job did not include benefits (Exhibit 2 and Testimony of Appellant).
7. Employer sponsored health insurance was not available to Appellant in 2020 (Testimony of Appellant).
8. Appellant's new position required licensing, which required exams and many fees that Appellant was required to pay (Testimony of Appellant).
9. Shortly after Appellant moved to Massachusetts, the Covid 19 pandemic began (Testimony of Appellant).
10. Due to the pandemic, Appellant was unable to work in the office building, and incurred many work expenses in order to work at home (Exhibit 2 and Testimony of Appellant).
11. Due to the pandemic, Appellant was unable make any sales. There were many weeks when Appellant did not have any income (Testimony of Appellant).

12. Appellant struggled to pay for rent, utilities, food, car payment and car insurance (Exhibit 2 and Testimony of Appellant).
13. Appellant fell behind in many bills. Appellant received shut off notices for electric/gas payments (Exhibit 2 and Testimony of Appellant).
14. Appellant reached out for information about health insurance options, but Appellant could not afford health insurance due to the lack of work and Appellant's many expenses (Exhibit 2 and Testimony of Appellant).
15. 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.
16. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents, with an adjusted gross income of \$30,933 could afford to pay \$106 per month for private insurance. According to Table 4, Appellant, who was 26 with no dependents and lived in Worcester County could have purchased private insurance for a cost of \$269 per month.
17. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
18. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
19. Appellant did not have health insurance for the time that Appellant lived in Massachusetts in 2020 (Testimony of Appellant and Exhibit 1).
20. Appellant has been assessed a penalty for eight months for 2020 (Exhibit 1).
21. Appellant filed a Hardship Appeal on November 15, 2022 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Government subsidized health insurance was considered affordable for Appellant in 2020, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant struggled to pay for all basic necessities and fell behind on many bills. Appellant received shut off notices of electric/gas service. 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)(b), 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: 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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 21-2252

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** November 20, 2023

**Decision Date:** November 17, 2023

### **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 20, 2023. 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 24, 2023

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-four years old and is single. She lives in Norfolk County, Massachusetts. Appellant works in the auto business.
2. Appellant had been homeless for many years. She lived out of her car. Appellant had suffered sexual molestation when she was a child which caused her trauma and alienation from her family.
3. Appellant did not have health insurance in 2021, 2022 and 2023.
4. The Appellant's monthly expenses totaled \$3,197.00, consisting of rent \$950.00, electricity \$30.00, telephone \$52.00, car insurance \$100.00, car gas \$200.00, food \$1,500.00, clothing \$200.00, storage \$160.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2021. "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . and "During 2021, you were homeless; more than 30 days in arrears in rent or mortgage payments." I will hear the appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$27,481.00 was less than \$38,280.00. The monthly premium for health insurance available on the private market in Norfolk County for a 42 year old single person was \$294.00. The tables reflect that Appellant could afford \$96.18 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 had been homeless for many years. She lived out of her car. Appellant had suffered sexual molestation when she was a child which caused her trauma and alienation from her family.

The Appellant did submit a Statement of Grounds for Appeal-2021. “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . and “During 2021, you were homeless; more than 30 days in arrears in rent or mortgage payments.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$27,481.00 in 2021, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$96.18 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$294.00 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 \$96.18 for health insurance coverage because of her income. Private insurance in the marketplace was \$294.00 per month, which is less than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-2679

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

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

**Hearing Date:** October 16, 2023

**Decision Date:** November 21, 2023

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2021. The Appellant appeared at the hearing, which was held by telephone, on October 16, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to submit documentation that would enable me to determine whether the employer-based insurance in which the Appellant was enrolled met Massachusetts' minimum creditable coverage requirements. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (8 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 16, 2023 (2 pages).

Exhibit 4: Open Record Request, dated October 16, 2023 (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).

2. The Appellant turned 62 in August 2021. (Exhibit 1).
3. The Appellant lived in Nantucket in 2021. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$476,793. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal. The Appellant wrote on their Statement of Grounds, "I have/had insurance – see 1095B enclosed." The Appellant submitted a federal form 1095B that showed that they had health insurance throughout 2021. (Exhibit 2).
7. A hearing on the Appellant's appeal took place telephonically on October 16, 2023. (Exhibit 3). The Appellant appeared at the hearing.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. The Appellant's AGI of \$476,793 was more than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$476,793, could have afforded to pay \$3,178 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was \$51,041 and above could have spent 8% of their earnings on health insurance; 8% of \$476,793 is \$38,143, and one-twelfth of \$38,143 is \$3,178.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan available on the private market to the Appellant, a single person age 61 living in Nantucket in January 2021, cost \$619 per month.
12. The Appellant testified that they resided in Nantucket in 2021 but worked for a New York-based employer that does not do business in Massachusetts.
13. The Appellant testified that they had insurance throughout 2021 through employment.

14. I left the record open for the Appellant to provide documentation that would enable me to determine whether the insurance in which the Appellant was enrolled met Massachusetts' minimum creditable coverage requirements. (Exhibit 4). The Appellant did not submit documentation in response to my open record request.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L. c. 111M, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed in turn.

First, I conclude that the Appellant could not have obtained affordable health insurance meeting MCC requirements through a government-subsidized program because the Appellant's income exceeded 300% of the Federal Poverty Level. Finding of Fact No. 9.

Second, I conclude that the Appellant could have obtained affordable health insurance meeting MCC requirements through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$3,178 per month for health insurance, and According to Table 4 of the Schedule

HC, the Appellant could have purchased health insurance meeting MCC requirements on the private market for \$619 per month. Findings of Fact Nos. 10 and 11.

The Appellant did not take the position that they could not have afforded to purchase health insurance meeting MCC standards on the private market, but rather said that they had health insurance throughout 2021 through their New York-based employer. Finding of Fact No. 13. I left the record open for the Appellant to provide documentation that would enable me to determine whether the Appellant’s employer-based health insurance met MCC standards. Finding of Fact No. 14 and Exhibit 4. The Appellant did not provide any documentation in response to my open record request. Finding of Fact No. 14.

Reviewing the totality of the evidence, I find that it is appropriate to uphold the Appellant’s twelve-month tax penalty in its entirety because the Appellant could have obtained affordable health insurance meeting MCC standards on the private market, and the Appellant did not provide information that would enable me to determine whether the Appellant’s employer-based health insurance met MCC standards. As such, there is insufficient information for me to conclude that the Appellant in fact had health insurance meeting MCC standards in 2021. See G.L. c. 111M, § 2.

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA21-2694

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2021 Tax Year Penalty  
**Hearing Date:** October 20, 2023  
**Decision Date:** November 10, 2023

### **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 20, 2023. 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 November 15, 2022
- Exhibit 3: Correspondence from Health Connector, dated September 29, 2023

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 27 years old in 2021 (Exhibit 1).
2. Appellant in Worcester County Massachusetts in 2021 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2021 of \$30,563 (Exhibit 1).
5. Appellant's worked at a sales job and Appellant received no benefits (Exhibit 2 and Testimony of Appellant).
6. Employer sponsored health insurance was not available to Appellant in 2021 (Testimony of Appellant).
7. Due to the pandemic, Appellant was unable to work in the office building, and incurred many work expenses in order to work at home (Exhibit 2 and Testimony of Appellant).
8. Due to the pandemic, Appellant was unable to make sales. There were many weeks when Appellant did not have any income (Testimony of Appellant).
9. Appellant struggled to pay for rent, utilities, food, car payment and car insurance (Exhibit 2 and Testimony of Appellant).
10. During 2020 and 2021, Appellant fell behind in many bills. Appellant received shut off notices for electric/gas payments (Exhibit 2 and Testimony of Appellant).

11. At the time of the hearing, Appellant was still paying back debt from 2020 and 2021 for basic living expenses (Testimony of Appellant).
12. During 2023, Appellant moved out of Massachusetts and now has a job with employer sponsored health insurance (Testimony of Appellant).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
14. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents, with an adjusted gross income of \$30,563 could afford to pay \$107 per month for private insurance. According to Table 4, Appellant, who was 27 with no dependents and lived in Worcester County could have purchased private insurance for a cost of \$263 per month.
15. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).
16. Appellant, earning less than \$38,280 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).
17. Appellant did not have health insurance for 2021 (Testimony of Appellant and Exhibit 1).
18. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).
19. Appellant filed a hardship Appeal on November 15, 2022 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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.

Government subsidized health insurance was considered affordable for Appellant in 2021, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant struggled to pay for all basic necessities and fell behind on many bills. Appellant received shut off notices of electric/gas service. I find that Appellant suffered a hardship and health insurance was not affordable for 2021. See Schedule HC for 2021, 956 CMR 6.08 (1)(b), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

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

OR

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

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

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