

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 22-949

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

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

**Hearing Date:** September 30, 2024

**Decision Date:** October 4, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on September 30, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (19 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 21 at the end of 2022. Exhibit 2.
2. Appellant lived in Suffolk County in 2022. Exhibit 2.
3. Appellant filed her 2022 taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on her 2022 state income tax returns and confirmed at the hearing, equaled \$44,251. 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 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2022. Exhibit 2.
6. Appellant had moved to Massachusetts from Canada to go to college. While she was in college, she obtained health insurance through her school. .
7. Appellant graduated in mid-2021. However, she believed that she was able to renew the health insurance that she had obtained while she was in school. She provided money for the premium to her school, which she believed was transmitted to the insurance company
8. In mid-2021, Appellant began working for a hospital. The employer offered her health insurance, but she did not take it because she believed she was covered through the insurance she had held during her time as a student.
9. At some point in 2022, Appellant learned that she was not in fact insured. She tried to contact the school, but by that point, it had gone out of business, and she was unable to contact anyone to find out what had happened.
10. She was unable at that point to sign up for insurance through her employer, because she had missed the annual open enrollment period.
11. At the end of 2022, Appellant signed up for insurance through her employer and was covered in 2023.
12. Subsequently, she moved out of Massachusetts and was living in another state as of the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, 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**

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

Because Appellant did not have health insurance in 2022, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

During 2022, Appellant worked at a job that offered health insurance as a benefit. However, she did not sign up for that insurance when she was hired in 2021 because she believed she was still covered under her school insurance. This was a good faith error, because she had provided money that she believed would be used to pay for the premium on that insurance. By the time that Appellant realized that she

was not in fact insured, it was too late to sign up for insurance through her employer because she had missed open enrollment. Thus, in effect, Appellant did not have access to employer-sponsored insurance in 2022.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant's household income during 2022 was \$44,251 and therefore she was not income-eligible for Connector Care.

Finally, Appellant could not have afforded to purchase health insurance the non-group market under affordability standards under state affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$44,251 was deemed able to afford 7.45 percent of income on insurance. (I obtain that percentage figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$3,296 annually or \$274 a month. During 2022, a person like Appellant who lived in Suffolk County and was 21 years of age would have had to pay a premium of at least \$277 a month to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In sum, Appellant could not have obtained affordable insurance through employment, through government-subsidized insurance, or through the non-group market. Because Appellant could not have obtained affordable insurance during the time that she was uninsured in 2022, she should not have been subject to the individual mandate penalty. Therefore, I am not required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will allow the appeal and waive the penalty in full.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 22-1028

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

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

**Hearing Date:** September 30, 2024

**Decision Date:** October 4, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on September 30, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (17 pages)

### **FINDINGS OF FACT**

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

1. Appellant was 35 at the end of 2022. Exhibit 2.
2. Appellant lived in Bristol County in 2022. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2022, as reported on his 2022 state income tax returns and confirmed at the hearing, equaled \$51,429. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2022 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2022. Exhibit 2.
6. In 2022, Appellant worked as an independent contractor. He was not offered insurance through that employment.
7. Prior to 2022, Appellant had obtained insurance through the Health Connector, purchasing it on the non-group market.
8. However, at some point before 2022, Appellant separated from the mother of his minor child. As a result of that separation, he was ordered to pay \$210 a week in child support. See Exhibit 3 (attachment).
9. Because of that additional expense, Appellant decided that he was no longer able to afford health insurance and so he dropped it.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, 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**

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

Because Appellant did not have health insurance in 2022, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 7-9

During 2022, Appellant worked as an independent contractor. He was not offered insurance through that employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant’s household income during 2023 was \$51,429 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$51,429 was deemed able to afford 7.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$3,908 annually or \$325 a month. During 2022, a person like Appellant who lived in Bristol County and was 35 years of age could have obtained insurance for a premium of \$298 a month. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could have obtained affordable insurance in 2022 but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. During 2022, Appellant was obliged to make substantial child support payments. Those payments of over \$800 a month well exceeded the amount of money he could have afforded for health insurance, which was \$325 a month. Thus, Appellant has established that in 2022 paying for health insurance would have caused him to experience a serious deprivation of the necessities of life. 956 C.M.R. § 6.08(1)(e). Thus, he has established a hardship sufficient to waive the penalty. Accordingly, I will allow the appeal and waive the penalty in full.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 22-1183

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

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

**Hearing Date:** September 30, 2024

**Decision Date:** October 4, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants are a married couple who will be referred to herein as Husband and Wife. Appellants both appeared at the hearing, which was held by telephone, on September 30, 2024. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachments) (11 pages)

### **FINDINGS OF FACT**

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

1. Appellants are a married couple. Husband was 32 and Wife was 33 at the end of 2022. Exhibit 2.
2. Appellants have a minor child.
3. Appellants lived in Norfolk County for part of the year in 2022. Exhibit 2.
4. Appellants filed their taxes as married filing jointly with one dependent. Exhibit 2.

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<sup>1</sup> Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.



5. Appellants' household income in 2022, as reported on their 2022 state income tax returns and confirmed at the hearing, equaled \$153,352. Exhibit 2.
6. Appellants reported in the Schedule HC that they filed with their 2022 state income taxes, and confirmed at the hearing, that each of them had health insurance from January through April of 2022, but did not have such insurance from May through December. Exhibit 2.
7. At the start of the year, Husband worked at a well-paying job that offered health insurance for the family. Wife did not work outside the home.
8. Husband was laid off in March of that year, and the health insurance obtained through that job ended in April.
9. After the layoff, Husband looked for a new position, but he was unsuccessful.
10. Husband received \$29,000 in unemployment compensation during 2022.
11. Additionally, Husband started an on-line business that generated about \$27,000 in revenue.
12. Thus, from April through December, the family lived on about \$56,000 in income.
13. The remainder of the income that they reported for 2022 consisted of Husband's salary from January through March and severance that he received when he was laid off.
14. In April, the family relocated overseas because they were exploring whether it would be more affordable for them to live there. They remained overseas through August. During that time, they had health coverage that was valid in that country.
15. They returned to the Commonwealth in August, but then went back overseas in November 2022. They have been living overseas since then.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, 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**

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

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

Because Appellants did not have health insurance in 2022, they are each subject to a penalty under M.G.L. c. 111M if they could have afforded to purchase such insurance. In order to determine whether they had access to affordable health insurance, I must consider whether they 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 2022 Schedule HC instructions at pages HC 7-9

During the period of 2022 in which Appellants were uninsured, Husband was unemployed and Wife did not work. Thus, they did not have access to employment-based insurance at that time.

Further, Appellants would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of three persons like Appellants' was \$65,880. (I obtain the figure of \$65,880 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellants' household income during 2023 was \$153,352 and therefore they were not income-eligible for Connector Care.

However, Appellants could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellants who were in a household of three persons and had annual income of \$153,352 were deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$12,268 annually or \$1,022 a month. During 2022, persons like Appellants who lived in Norfolk County and were in a family in which the oldest person was 33 years of age could have obtained insurance to cover a family for a premium of \$741 a month. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellants could have obtained affordable insurance in 2022 but didn't, I must determine whether they have stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that they have.

First, in this case, strict application of the affordability standards would be misleading. Although Appellants' annual income was \$153,352, about two-thirds of that income was either salary from Husband's job or severance. That income was received before the period of uninsurance. During the period when Appellants were uninsured, their income was considerably lower, consisting of about \$56,000 over a nine-month period, or about \$6,222 a month. If annualized, that amount would be \$74,662. Under the affordability standards, a family with that income could afford 8 percent for insurance; this amount would be \$5,973 annually or \$497 a month. That amount would actually be significantly less than the \$741 a month needed to purchase family health insurance. See Tables 3 and 4 to the instructions for the 2022 Schedule HC.

Additionally, Appellants were not living in Massachusetts for most of the time that they were uninsured. They went overseas for an open-ended period in order to explore the possibility of permanently living

overseas. Although they returned to the Commonwealth, they were only in Massachusetts for three months before they left again. Given this, it would not have been useful or prudent to obtain health insurance that covered them only for services received in Massachusetts.

In light of those circumstances, I will exercise my discretion to waive the penalty assessed against Appellants. Accordingly, I will allow the appeal and waive the penalty in full.

**PENALTY ASSESSED**

Husband

Number of Months Appealed: 5

Number of Months Assessed: 0

Wife

Number of Months Appealed: 5

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-345

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

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

**Hearing Date:** September 10, 2024

**Decision Date:** October 24, 2024

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

Appellant filed her 2023 tax return as Single with no dependents. The Appellant appeared at the Hearing. The Hearing was held by telephone, on September 10, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 2, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 15, 2024, with attachments.
- Exhibit 4: Documents Received as a Result of an Open Record Request sent to Appellant.

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was age 22 in January 2023, and filed her Federal Income Tax return as Single with no Dependents (Exhibit 2).
2. The Appellant lived in Bristol County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$62,079 (Exhibit 2).
4. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single with no dependents, with an annual adjusted gross income of \$62,079 could afford to pay \$414 per month for health insurance. In accordance with Table 4, Appellant, age 22 living in Bristol County, could have purchased private insurance for \$312 per month. Private insurance was affordable for Appellant.
7. Appellant testified that she was employed full time in 2023, and her employer did provide health care insurance, but she opted out of this benefit because she was covered under her parent's health insurance plan (Appellant Testimony and Exhibit 2).
8. Appellant stated that 2023 was the first year she was filing taxes on her own and the forum she filed with did not give an option to claim her parent's coverage as compliant coverage (Appellant Testimony).
9. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. Appellant testified that she had over \$3,500 a month in living expenses including rent and will provide proof of insurance for 2023 through her parent's health care plan. Appellant provided this proof of insurance through a Bonafide health insurer that identified a plan covering her that meets Minimum Creditable Insurance (MCC) required in Massachusetts (Appellant Testimony and Exhibits 3 and 4).

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

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

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

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal Tax Return as Single with no dependents and had an adjusted gross income of \$62,079. She could afford to pay for health insurance via the Health Connector or on the private market. In accordance with Table 3 she could afford to pay \$414 per month for health insurance. According to Table 4, Appellant age 22, living in Bristol County, could have purchased private insurance for \$312 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

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

Appellant provided relevant additional information regarding her coverage from the insurer in the form of a letter demonstrating health insurance coverage from 2018 through the date of the letter September 24, 2024. Appellant testified to expenses exceeding \$3,500 – this fact could create a financial hardship; however, this point is not relevant since she was covered by her parent’s plan.

Appellant believably testified that there was not a function on her tax preparer’s forum for her parent’s health insurance policy to cover her. She is well served to amend her tax filings for 2023 to reflect the fact that she was properly insured as a Massachusetts Resident.

I am exercising my discretion as the Hearing Officer and Appellant’s penalty for 2023 is waived in its entirety.

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA212151

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

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

**Hearing Date:** March 22, 2024

**Decision Date:** October 2, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on March 22, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on April 22, 2022 with letter and 2021 MA1099HC and 1095C attached
- Exhibit 2: Appeal Case Information from Schedule HC 2021
- Exhibit 2a: Information sheets from Schedule HC for 2021 showing dismissal and vacating of dismissal
- Exhibit 3: Notice of Hearing sent to Appellant dated February 9, 2024 for March 22, 2024 hearing
- Exhibit 3a: Notice of Hearing sent to Appellant dated December 27, 2022 for January 11, 2023 hearing
- Exhibit 4: Shut-off notices for electricity and gas, May, 2021
- Exhibit 5: 2021 tax return worksheet regarding employer-sponsored insurance
- Exhibit 6: Letter from Appellant to Department of Revenue requesting vacating of dismissal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single person with no dependents claimed, was 58 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2021. Appellant lived with her sister who was disabled and collected SSI payments. She and her sister moved to Massachusetts near the end of 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$63,154 in 2021. Appellant's income was inconsistent. Appellant worked for a temp agency for most of 2021. Her work hours varied month to month, until the company she had been placed at offered her a full-time position in the fall (Testimony of Appellant, Exhibit 2).



4. 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.
5. According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$63,154 could afford to pay \$421 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Middlesex County, could have purchased insurance for \$401 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 2).
6. The temp agency Appellant worked for offered health insurance to the appellant. The premium cost \$444 a month. This was unaffordable for the appellant (Testimony of Appellant, Exhibits 2 and 5, Schedule HC for 2021, Table 3).
7. Once the company Appellant had been placed with offered her a full-time position, the appellant was offered health insurance by the company. This was affordable for the appellant and Appellant obtained health insurance which met the Commonwealth's minimum coverage standards as of November 1, 2021. As of the date of this hearing, Appellant still had the same coverage (Testimony of Appellant, Exhibit 1 attachment).
8. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2021 (Testimony of Appellant).
11. Appellant received two shut-off notices for basic utilities in May, 2021 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in her rent payment in 2021 (Testimony of Appellant).
13. The appellant had the following monthly expenses for basic necessities in 2021: rent-\$1,750; heat and electricity-\$500; telephone and internet-\$300; food, personal care and household items-\$800; clothing-\$230; car insurance-\$100; gas-\$30; car payments-\$500 (for the first three or four months of the year). In addition, Appellant had to pay \$200 a month for storage for possessions she brought with her when she moved to Massachusetts and \$250 a month for a debt of her mother's (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 2021 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 which met the Commonwealth's standards in November and December, 2021. Appellant has been assessed a penalty for seven months (January through July) only since she is entitled to a three-month grace period before obtaining coverage. See Massachusetts General Laws Chapter 111M, Section 2. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$63,154 could afford to pay \$421 per month for health insurance. According to Table 4, Appellant, 58 years old and living in Middlesex County could have purchased insurance for \$401 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2021 Tables 3 and 4; Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$63,154, more than the income limit for one person (\$38,280). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2021. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant had a temporary job until the fall of 2021. The employer offered the appellant health insurance for \$441 a month. This was not affordable for the appellant. See above. In the fall, Appellant was offered a full-time job. She obtained health insurance through the job. Coverage began on November 1, 2024. As of the date of this hearing, Appellant had the same job and the same coverage. See the testimony of the appellant which I find to be credible, and Exhibit 5.

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

Appellant received two shut-off notices, one for electricity and one for gas, in May, 2021. See Exhibit 4 and the testimony of the appellant. Pursuant to 956 CMR 6.08 (1)(b), the receipt of a shut-off notice constitutes a financial hardship which allows for the waiver of the tax penalty. I determine that Appellant's penalty is waived because of financial hardship.

In addition, Appellant had the following expenses for basic necessities during 2021: rent-\$1,750; heat and electricity-\$500; telephone and internet-\$300; food, personal care and household items-\$800; clothing-\$230; car insurance-\$100; gas-\$30; car payments-\$500 (for the first three or four months of the year). In addition, Appellant had to pay \$200 a month for storage for possessions she brought with her when she moved to Massachusetts and \$250 a month for a debt of her mother's. See the testimony of the appellant which I find to be credible. These expenses for at least the first three or four months of 2021 amounted to approximately \$4,700. Appellant's income before taxes

came to about \$5,200. After taxes, and the cost of insurance (\$401: See Table 4 of Schedule HC for 2021), Appellant would have had no disposable income each month and probably would have had a deficit. Appellant's penalty is also waived because the cost of purchasing health insurance would have caused her to have a deprivation of basic necessities. See 956 CMR 6.08(1)(e).

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety. See Massachusetts General Laws, Chapter 111M, Section 2. I also note that since November 1, 2021, Appellant has had health insurance which meets the Commonwealth's standards.

Appellant should note that any waiver granted here is for 2021 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 2021.

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA212185

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

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

**Hearing Date:** March 22, 2024

**Decision Date:** October 15, 2024

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 22, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until April 24, 2024 to give the appellant time to submit additional evidence. The appellant submitted documents on April 9, 2024. They have been marked as exhibits and admitted in evidence. This hearing is now closed.

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 2021 signed and dated by Appellant on April 25, 2022 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2021 and Appeal Case Information print-out showing vacating of dismissal of appeal
- Exhibit 3: Notice of Hearing sent to Appellant dated February 9, 2024 for March 22, 2024 hearing
- Exhibit 3a: Notice of Hearing sent to Appellant dated December 27, 2022 for January 12, 2023 hearing
- Exhibit 4: Appellant's electric bill, April 20, 2022
- Exhibit 5: Appellant's letter to the Connector Appeals Unit requesting new hearing date received 2/10/2023
- Exhibit 6: Appeals Unit letter to Appellant dated 3/25/2024 regarding open record request with attachment
- Exhibit 7: Appellant's Federal Tax Return transcript for tax period ending December 31, 2021
- Exhibit 8: Appellant's print-out summarizing 2021 earnings
- Exhibit 9: Appellant's 1099-G for 2021 showing payment of unemployment benefits

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a married person filing separately with no dependents claimed, was 49 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2021 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$52,851 in 2021. The appellant was self-employed and had business expenses of \$3,969. Part of his income came from unemployment benefits (Testimony of Appellant, Exhibits 7 and 9).

4. According to Appellant's Massachusetts 2021 tax return, Schedule HC, the appellant's Federal Adjusted Gross Income was \$125,229. This was in error (Exhibit 2, Testimony of Appellant, Exhibit 7).
5. Appellant had no health insurance in 2021. He has been assessed a penalty for twelve months. Appellant has appealed this determination (Testimony of Appellant, Exhibits 1 and 2).
6. 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.
7. According to Table 3 of Schedule HC for 2021, the appellant, married, filing separately with no dependents claimed with an adjusted gross income of \$48,882 (earnings minus business expenses), could afford to pay \$309 per month for health insurance. According to Table 4, Appellant, 49 years old and living in Middlesex County, could have purchased insurance for \$336 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 7).
8. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, and Exhibit 7).
9. Appellant was self-employed and did not have access to insurance through any employer (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 2021 should be waived, either in whole or in part.

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

The appellant had no health insurance in 2021. He has been assessed a penalty for the entire year. Appellant has appealed the assessment. See Exhibits 1 and 2.

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

In this matter, the case file on the date of the hearing had a document, Exhibit 2, a print-out which had information taken from the appellant's 2021 Massachusetts tax return, which showed that the appellant had a Federal Adjusted Gross Income of \$125,229. The appellant testified that the amount of income was an error. He testified that he was self-employed and that he received some unemployment benefits in 2021. He stated that his income was much lower than the amount shown on Exhibit 2. Given the discrepancy between the document and the testimony, the record was left open to give the appellant time to submit additional evidence of income. See Exhibit 6. Appellant submitted a transcript of his 2021 Federal tax return and a 1099-G form for 2021 showing the amount Appellant received as unemployment compensation. See Exhibits 7 and 9. These documents corroborate Appellant's testimony. Appellant's income (what he earned minus business expenses, and unemployment compensation) came to \$48,882. This is the income figure used in the rest of this decision.

According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$48,882 could afford to pay \$309 per month for health insurance. According to Table 4, Appellant, 49 years old and living in Middlesex County, could have purchased insurance for \$336 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2021 Tables 3 and 4; Exhibit 7.

According to Table 2 of Schedule HC for 2021, Appellant who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2021, and Exhibit 7. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

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

The appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2021. See discussion above. His penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance which meets the state's standards, the individual shall not be assessed a tax penalty.

Appellant should note that any waiver granted here is for 2021 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 2021.

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA221127

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

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

**Hearing Date:** April 19, 2024

**Decision Date:** October 21, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on April 19, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 4, 2023 with 1099HC2021 and letters from the Connector attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated March 12, 2024 for April 19, 2024 hearing
- Exhibit 3a: Notice of Hearing sent to Appellant dated November 17, 2023 for December 18, 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 21 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$35,173 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant worked at a daycare center all of 2022. The appellant was not offered health insurance through the job. Her employer told her that she would be offered health insurance, but the employer never arranged for the employees to have coverage (Testimony of Appellant).
5. Appellant had health insurance under her mother's ConnectorCare plan in 2021 and in January, 2022. The cost of the coverage increased and the appellant's mother could no longer afford the premium payments. When her mother dropped her plan, the appellant also lost her coverage. (Testimony of Appellant, Exhibits 1 and 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$35,173 could afford to pay \$146 per month for health insurance. According to Table 4, Appellant, 21 years old and living in Plymouth 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).
8. 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. She would also have been eligible because she had no access to health insurance through employment (Table 2 of Schedule HC-2022, and Exhibit 2, Testimony of Appellant).
9. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
10. Appellant did not receive shut-off notices for basic utilities in 2022 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in her rent payment in 2022. Three times during the year, she was unable to pay the full amount on time. She made partial payments (Testimony of Appellant).
12. The appellant had the following monthly expenses for basic necessities in 2022: rent including heat and electricity-\$170; telephone and internet-\$70; food, personal care and household items-\$1,500; clothing-\$115; gas-\$85; contact lenses-\$40. Appellant lived with her mother. She was unable to afford a car. The amount she spent on gas was for contributions to those who gave her rides (Testimony of Appellant).
14. At the time of this hearing, Appellant had health insurance through the Connector (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 which met the Commonwealth's minimum creditable coverage standards in January, 2022. The appellant was uninsured the rest of the year. Since she is entitled to a three-month grace period after losing her coverage, she has been assessed a tax penalty for eight months only, May through December. The appellant has appealed the assessment. See Exhibits 1, 2, and the testimony of the appellant.

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 \$35,173 could afford to pay \$146 per month for health insurance. According to Table 4, Appellant, 21 years old and living in Plymouth County could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022, Tables 3 and 4; Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$35,173, less than the income limit for one person (\$38,640). She was also eligible because she was not offered health insurance through her job. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022.

Appellant worked at a daycare center all of 2022. Her employer told the appellant that the appellant would be offered health insurance. No such benefit was offered during the year. Appellant had no access to health insurance through employment. See the testimony of the appellant which I find credible.

Since the appellant could have obtained affordable health insurance which met Massachusetts standards 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 during 2022: rent including heat and electricity, water and sewer-\$170; telephone and internet-\$70; food, personal care and household items-\$1,500; clothing-\$115; gas-\$85; contact lenses-\$40. Appellant lived with her mother. She was unable to afford a car. The amount she spent on gas was for contributions to those who gave her rides. See the testimony of Appellant which I find credible.

Appellant's expenses amounted to about \$2,000. Appellant's income before taxes came to about \$2,900. While it does not appear that paying for health insurance would have caused the appellant to experience a serious deprivation of basic necessities, I will take into account other financial factors raised by the appellant during the hearing. She was dependent upon her mother for support (she was asked to contribute only \$170 a month towards rent and utilities), and she was unable to afford a car and was, therefore, dependent upon others for transportation. Three times during the year, she was unable to pay her mother the full \$170 contribution to household expenses on time. Though we do not know the exact amount, we do know that the appellant had to pay some amount for state and federal taxes, leaving Appellant with little disposable income.

Based upon the facts summarized above, I determine that Appellant's penalty is waived because of financial issues raised by the appellant during the hearing. See 956 CMR 6.08(3). I also note that as the time of this hearing, Appellant had obtained health insurance through the Connector.

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: PA221419

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

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

**Hearing Date:** April 19, 2024

**Decision Date:** October 4, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on April 19, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on June 11, 2023 with letter and 2023 paystubs attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated March 12, 2024 for April 19, 2024 hearing
- Exhibit 3a: Notice of Hearing sent to Appellant dated January 11, 2024 for February 20, 2024 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 26 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County in 2022. Appellant moved to Massachusetts in December, 2021 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$27,313 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant was unemployed for about a month after moving to Massachusetts. At the end of January, Appellant obtained a job through a temp agency. She worked 40 hours a week and earned about \$15 an hour. The appellant then got sick with Covid and lost her job. After she recovered, she obtained another temporary job. Shortly after starting in the second temp job, Appellant left and got a job in Connecticut. She realized that she was spending too much on gas, so she quit job and in March, got a job in a nursing home in Massachusetts. None of the temporary jobs offered benefits to the appellant (Testimony of Appellant).

5. Once Appellant started working at the nursing home, she earned about \$18 an hour. The appellant was offered health insurance, but she did not enroll because she thought she could not afford it. Appellant does not remember how much it would have cost (Testimony of Appellant).
6. Appellant had no health insurance in 2022. She has been assessed a tax credit penalty for twelve months. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$27,313 could afford to pay \$95 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Hampden County, could have purchased insurance for \$295 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 had her cellphone shut off in February, 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
13. The appellant had the following monthly expenses for basic necessities in 2022: rent, including electricity, and heat-\$300; telephone and internet-\$200; food-\$540; clothing and laundry-\$140; car payments-\$340; car insurance-\$134; gas-\$430. Appellant also had to pay \$900 for debt payments during the year (Testimony of Appellant)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$27,313 could afford to pay \$95 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Hampden County, could have purchased insurance for \$295 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 \$27,313, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment in January and February. The appellant then began a new job which did offer health insurance. Appellant thought she could not afford the coverage. Appellant testified that she did not remember the cost. See also the testimony of the appellant which I find to be credible.

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

Appellant had the following expenses for basic necessities during 2022: rent, including electricity, and heat-\$300; telephone and internet-\$200; food-\$540; clothing and laundry-\$140; car payments-\$340; car insurance-\$134; gas-\$430. Appellant also had to pay \$900 for debt payments during the year. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$27,313, or about \$2,250 a month before deductions for taxes. Her monthly expenses for basic necessities amounted to \$2,100, not including debt repayment. One month she was unemployed and in February, her cellphone service was disconnected. Insurance through the Connector would have cost the appellant at least \$95 a month. Appellant would have had a deficit every month, her expenses and deductions being greater than her income. See Table 4 of Schedule HC for 2022, Exhibit 2 and the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant. In addition, Appellant had her phone service terminated during the year. Pursuant to 95 6 CMR 6.08(1)(b), the termination is also grounds for financial hardship. 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: PA23133

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** June 11, 2024

**Decision Date:** October 12, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 11, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Schedule HC for Healthcare from DOR

Exhibit 2: Statement of Grounds and supporting documents dated March 18, 2024

Exhibit 3: Correspondence from Health Connector, dated May 15, 2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 20 years old in 2023 and resided in Worcester County (Exhibit 1).
2. Appellant filed a Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2023 of \$51,312 (Exhibit 1).
4. Appellant was covered by health insurance from January to April 2023 (Exhibit 1 and Testimony of Appellant).
5. Appellant changed jobs in the spring of 2023 (Testimony of Appellant).
6. Appellant was not sure when the health insurance ended in 2023, but Appellant did not know about the loss of insurance immediately (Testimony of Appellant).
7. Appellant made less income in the earlier part of 2023 (Testimony of Appellant).
8. Appellant struggled to pay for rent, utilities, food and other necessary expenses (Testimony of Appellant).
9. Appellant applied for health insurance in the later part of 2023 (Testimony of Appellant).
10. Appellant began health insurance coverage in January 2024 and was covered at the time of the hearing (Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

12. According to Table 3 of Schedule HC for 2023 a person filing as single with no dependents claimed with an adjusted gross income of \$51,312 could afford to pay \$325 per month for private insurance. According to Table 4, Appellant, who was 20 years old and lived in Worcester County could have purchased private insurance for a cost of \$312 per month.
13. Private insurance was considered affordable for Appellant in 2023 (Schedule HC for 2023).
14. Appellant, earning more than \$40,770 would not have been income eligible for government subsidized health insurance (Schedule HC for 2023).
15. Appellant did not have health insurance for eight months of 2023 (Exhibit 1 and Testimony of Appellant).
16. Appellant has been assessed a penalty for five months for 2023 (Exhibit 1).
17. Appellant filed a hardship Appeal May 15, 2024 (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 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 five 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. In 2023, Appellant was considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellant made less income during the early part of the year. At the time that Appellant lost coverage in May 2023, the purchase of private health insurance would have caused Appellant to experience a hardship. Appellant did apply for health insurance later in the year and became covered in January 2024. I find that from May through December 2023, Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2023, 956 CMR 6.08 (1)(e), Exhibits 1, 2, and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2023 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 5

Number of Months Assessed: 0

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

OR



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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-216

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2023 Tax Year Penalty  
**Hearing Date:** July 8, 2024  
**Decision Date:** October 31, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 8, 2024. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 28, 2024
- Exhibit 3: Correspondence from Health Connector, dated June 6, 2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 66 and 48 years old in 2023 (Exhibit 1).
2. Appellants lived in Bristol County Massachusetts in 2023 (Exhibit 1 and Testimony of Appellants)
3. Appellants filed a Massachusetts 2023 tax return as married filing jointly with no dependents claimed (Exhibit 1).
4. Appellants had an Adjusted Gross Income for 2023 of \$141,141 (Exhibit 1).
5. Appellants had immigrated to the United States about six years ago, but were unable to bring their children at that time (Testimony of Appellant).
6. Appellants had worked very hard to save money and obtain documentation so that they could have their children join them in the United States (Testimony of Appellant).
7. Appellants paid their living expenses and also sent money pay for their children's expenses (Testimony of Appellant).
8. In 2023, Appellants were almost in a position to have their children join them in the United States (Testimony of Appellants).
9. During 2023, Appellants had access to employer sponsored health insurance (Testimony of Appellants).
10. Appellants were covered by employer sponsored health insurance in January and February 2023 (Exhibit 1 and Testimony of Appellant).

11. Appellants did not have health insurance during March through December 2023 so that they could re-unite with their children (Testimony of Appellant and Exhibit 1).
12. Appellants have been assessed a penalty for seven months for 2023 (Exhibit 1).
13. Appellants filed a Hardship Appeal on March 28, 2024 (Exhibit 2).
14. Appellants obtained health insurance beginning in January 2024 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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.

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

Appellants struggled to pay for basic necessities for themselves and for their children. Appellants had the additional expenses of re-uniting with their children who lived outside of the country. Appellants obtained health insurance as soon as they paid the expenses of re-uniting with their children. I find that Appellants suffered a hardship and health insurance was not affordable. See Schedule HC for 2023, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellants, which I find to be credible.

I find the penalty assessed against Appellants for 2023 should be waived in its entirety.

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23217

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2023 Tax Year Penalty  
**Hearing Date:** July 8, 2024  
**Decision Date:** October 14, 2024

### AUTHORITY

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

### JURISDICTION

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

### HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 8, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated March 28, 2024
- Exhibit 3: Correspondence from Health Connector, dated June 6, 2024

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2023 (Exhibit 1).
2. Appellant lived in Berkshire County Massachusetts in 2023 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2023 of \$59,235.00 (Exhibit 1).
5. Appellant was insured through employer sponsored health insurance during 2022 (Testimony of Appellant).
6. Appellant's job and health insurance ended in December 2022 (Testimony of Appellant).
7. Appellant was unemployed in early 2023 (Testimony of Appellant).
8. When Appellant was unemployed, Appellant struggled to pay for basic expenses, including rent, food, car payment, and student loan (Testimony of Appellant).
9. In March 2023, Appellant began a job that offered employer sponsored health insurance after a waiting period (Testimony of Appellant).
10. Appellant became eligible and enrolled in employer sponsored insurance in July 2023 (Exhibit 1 and Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

12. According to Table 3 of Schedule HC for 2023 a person filing as single with no dependents, with an adjusted gross income of \$59,235 could afford to pay \$395 per month for private insurance. According to Table 4, Appellant, who was 27 years old with no dependents and lived in Berkshire County could have purchased private insurance for a cost of \$312 per month.

13. Private insurance was considered affordable for Appellant in 2023 (Schedule HC for 2023).

14. Appellant, earning more than \$40,770 would not have been income eligible for government subsidized health insurance (Schedule HC for 2023).

15. Appellant did not have health insurance during January through June 2023 (Exhibit 1 and Testimony of Appellant).

16. Appellant has been assessed a penalty for three months for 2023 (Exhibit 1).

17. Appellant filed a hardship Appeal on June 6, 2024 (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 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

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

Private health insurance was available and considered affordable for Appellant in 2023, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Appellant was unemployed and struggled to pay for basic expenses from January through March 2023. Appellant began a new job in March that offered employer sponsored health insurance, which began in July 2023. Given these circumstances, I find that Appellant suffered a hardship. See Schedule HC for 2023, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2023 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 3

Number of Months Assessed: 0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-372

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 17, 2024

**Decision Date:** September 28, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 17, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2023

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

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 51-years-old, is single, and does not have children. He did not have health insurance in 2023. He resided in Barnstable County, MA in 2023. (Testimony, Ex. 2)
2. In September, 2022, the appellant experienced a fire in his apartment which was caused by another tenant. The apartment was destroyed and he had to move into another place. He remained there for approximately three months at which point he could no longer afford the rent. He subsequently moved into his mother's house at the beginning of 2023 and lived with her for the rest of the year. He lost all his possessions in the fire and had to replace everything including furniture, dishes, appliances, and linens. He received approximately \$700.00 from his landlord for the loss and was not eligible for any additional compensation. He paid approximately \$3000.00 to replace what he lost and about \$2000.00 to move into the second apartment. The fire "wiped him out" and he had to use his savings to recover. (Testimony, Ex. 1)

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



3. The appellant was employed in 2023 on a full-time basis and his employer offered health insurance. He missed the open enrollment period and was unaware that he did not have insurance until he prepared his 2023 tax returns in early 2024. His salary was directly deposited into his bank account and he did not review the deductions that were withheld. (Testimony)
4. The appellant lost his job in August, 2023, and was unemployed until he got another job in March, 2024. He was not eligible for unemployment insurance because he had not worked a sufficient number of months in that job. (Testimony)
5. The appellant has been enrolled in employer health insurance since he began his new job in March, 2024. (Testimony, Ex. 1)
6. The appellant has never been subject to a penalty for failure to obtain health insurance prior to 2023. (Testimony)
7. The appellant contributed money towards rent, electricity and food while he lived with his mother. (Testimony)
8. The appellant reported an adjusted gross income of \$76,325.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)
9. In 2023, the appellant had regular monthly expenses of approximately \$2117.00 for rent, food and electricity (\$1350.00), cell phone (\$80.00), automobile payment (\$320.00), automobile insurance (\$167.00), and gasoline (\$200.00). In addition, he paid approximately \$60.00/month towards credit card debt. (Testimony)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him in 2023 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 2) he incurred a fire, flood, natural disaster, or other unexpected natural or human-caused event which caused substantial household or personal damage. He also submitted a letter with his statement in which he stated in part that he always had employer sponsored health insurance until 2023. He stated that he was forced to move out of his affordable apartment due to a fire and it caused financial stress from which he is still recovering. Finally, he stated that he understands the importance of insurance coverage and has had health insurance in his new job since March, 2024.

The appellant did not have health insurance in 2023. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin

03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the whole year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that in September, 2022, his apartment was destroyed by a fire and he lost all his possessions. He testified that he moved into another apartment for approximately three months and subsequently moved into his mother's house in 2023 because he could no longer afford the rent. He testified that he used most of his savings to replace what he lost and to move into the apartment. He testified that he was employed in 2023 and did not enroll in employer health insurance because he missed the open enrollment period. He testified that he was unaware that he did not have insurance until he prepared his 2023 tax returns in early 2024. Finally, he testified that he lost his job in August, 2023, and remained unemployed until he got a new job in March, 2024, at which time he enrolled in employer health insurance.

The evidence provided by the appellant established that his income for 2023, \$76,325.00, was more than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income above \$54,361.00 is deemed to be able to afford a monthly premium of \$508.83 (8.00% of \$76,325.00/12). Table 4 of the Premium Schedule indicates that a 50-year-old individual (the age of the appellant in 2023) in Barnstable County (where the appellant resided in 2023) could have purchased private health insurance for \$475.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2023.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2022, he incurred basic monthly expenses of approximately \$2177.00, including his credit card debt. Those expenses were less than his regular monthly pre-tax income of approximately \$6360.00, thereby making a private insurance premium of \$475.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$4183.00 per month is not a panacea, it does not appear on its face that the payment of \$475 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. Although the numbers indicate that health insurance was affordable, the appellant established a compelling picture of financial distress caused by the ripple effects of a fire in late 2022 that destroyed all his belongings. He offered substantial and credible testimony that he exhausted his savings to replace what he lost and was forced to move in with his mother in 2023 when he could no longer afford rent in the replacement apartment. It is also noted that the

appellant always had insurance prior to 2023 and has been enrolled in employer health insurance since March, 2024, thereby demonstrating that the mandate to purchase insurance has not been lost on him. While technically the appellant does not qualify for a hardship exemption according to the language of the regulation, his difficult circumstances in 2023 rise to the level of a hardship which comports with the spirit of the law.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

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

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

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-373

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 17, 2024

**Decision Date:** October 31, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 17, 2024, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

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

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 28-years-old, is single, and does not have any children. In 2023, she had minimum creditable coverage health insurance for January and February, and from September through December. She resided in Suffolk County in 2023. (Testimony, Ex. 2)
2. The appellant moved to Massachusetts at the end of 2021 and began work as a research assistant at a local university. She was insured under her parents' health insurance plan until she turned 26-years-old and subsequently had subsidized insurance through the Health Connector for part of 2022. (Testimony)
3. The appellant was employed for the months of January and February, 2023, during which time she had employer health insurance. She left that job for personal reasons and started a new position in June for which employer insurance was offered, but required a 90-day waiting period before enrollment. In September, she enrolled in insurance for the remainder of the year. (Testimony, Exs. 1,2)

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

4. The appellant did not investigate health insurance options between March and June, when she started her new job. Although she had been enrolled in insurance through the Health Connector in 2022, she was not aware of the individual mandate in Massachusetts. (Testimony)
5. The appellant has continued her enrollment in employer health insurance in 2024. (Testimony)
6. The appellant reported an adjusted gross income of \$101,884.00 on her 2023 federal tax return, and reported that she 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 her in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she stated in part that she had employer health insurance for six months in 2023, and had to prioritize rent and other expenses while she was uninsured.

The appellant had health insurance in 2023 for January and February, and from September through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was insured for six months, she was assessed and is appealing a penalty of two months (i.e., the months of uninsurance less the gap period of three months).<sup>2</sup>

The appellant testified credibly that in 2023, she had employer health insurance in January and February and from September through December. She testified that she left her first job for personal reasons and was subject to a 90-day waiting period in her second job before she became eligible to enroll in insurance. Finally, she testified that she was enrolled in health insurance in 2022 and has continued her enrollment in employer insurance in 2024.

Since the appellant was in a 90-day waiting period for employer health insurance for which she ultimately enrolled, those three months (June through August) should not be considered in the calculation of the penalty. Accordingly, the only other months during which she did not have insurance were March through May. Pursuant to the aforementioned three-month gap rule, the appellant is entitled to apply that window to those three months, leaving her with no months during which she was subject to a penalty. Given this conclusion, it is not necessary to consider the hardship grounds alleged by her as grounds for her appeal.

Based on the foregoing, it is concluded that the appellant is not subject to a penalty for any of the months for which she was assessed, and her request for a waiver from the penalty is **granted**. The determination that the

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<sup>2</sup> It is noted that although the appellant indicated on her Schedule HC that she is only subject to a penalty for two months in 2023, it is determined that she is actually subject to a three-month penalty based on the application of the aforementioned three-month gap period (i.e., the number of months of uninsurance (6) less the gap period of three months).

appellant is eligible for a waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   2                        Number of Months Assessed:   0  

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

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-375

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

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

**Hearing Date:** September 20, 2024

**Decision Date:** September 26, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on September 20, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).
- Exhibit 2: Statement of Grounds for Appeal and supporting documentation (16 pages).
- Exhibit 3: Revised notice of 9/20/24 hearing, dated 9/6/24. (1 page).
- Exhibit 4: Notice of 9/20/24 hearing, dated 9/9/24 (3 pages).
- Exhibit 5: Notice of 9/20/24 hearing, dated 8/6/24 (2 pages).
- Exhibit 6: Final Appeal Decision, PA 22-1124, dated 1/5/24 (3 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 59 in August 2023. (Exhibit 1).

3. The Appellant testified that they resided in Bristol County in 2023; the residence listed on the Appellant's Schedule HC was in Plymouth County.
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$32,289. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023 other circumstances such as: applying the Affordability Tables to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant submitted a sworn statement in support of their appeal that said the following: "1. I made a mistake in understanding my 1095-C (copy attached) and I was not offered free health insurance because I was a part time employee and if I was full-time, the available health insurance for full-time employees did not provide Minimum Essential Coverage as was coded on my 1095-C as 1H and 2B. 2. I faxed utility shut off 6 times in 2023 (copies attached) due to continued business hardships stemming from Covid 19 based business difficulties which will be resolved by December 2024 when I liquidate my business and return to work full-time. 3. My business operations were disrupted again when I become [sic] unemployed on 6/30/2023. (Unemployment letter attached.) 4. At all times in 2023, had I had a health qualifying event, I would have enrolled in health insurance in order to be insured. At no time during 2023 did I, in any way, shape, or form burden the health care system by creating any unpaid medical bills." (Exhibit 2).
8. The Appellant submitted a document from the Massachusetts Department of Unemployment Assistance establishing their benefit year effective date as 6/25/23 and their weekly benefit amount as \$171. (Exhibit 2).
9. The Appellant submitted two utility shutoff notices with the following dates and amounts for an address that they testified was their residence: 4/26/23 (\$186.87) and 5/30/23 (\$217.19). (Exhibit 2) and Appellant Testimony. The Appellant also submitted four utility shutoff notices for a property that they testified they operate as a business. (Exhibit 2) and Appellant Testimony.
10. The Appellant submitted a federal Form 1095C that had the code "1H" for the months of January through April and November and December and no code for the months of May through October. I take administrative notice of the fact that the IRS uses the "1H" code to mean no offer of coverage.



11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue (“DOR”) 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
12. The Appellant’s AGI of \$32,289 was less than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
13. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$32,289, could have afforded to pay \$110 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$27,181 and \$33,975 could have spent 4.1% of their earnings on health insurance; 4.1% of \$32,289 is \$1323, and one-twelfth of \$1323 is \$110.
14. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 58 living in Bristol County in January 2023, cost \$490 per month. The cost would have been the same for a single person age 58 living in Plymouth County in January 2023.
15. The Appellant was granted a waiver of a tax penalty in 2022 because the Appellant had insurance during some months and experienced a hardship in the remaining months. The Appellant submitted shutoff notices in support of their appeal. (Exhibit 6).
16. The Appellant testified that they have had financial difficulties since the COVID-19 pandemic, when they were precluded from evicting a tenant who had not been paying rent, and that they suffered financial hardship in 2023.
17. The Appellant testified that in 2023, they worked 20 hours per week from January to June. The Appellant testified that they were not offered health insurance at this job because of their part-time status.
18. The Appellant testified that they were laid off from their part-time job in June 2023 because their employer lost a contract and that they collected unemployment compensation for the remainder of the year. The Appellant testified that they did not have any job in 2023 that offered them health insurance.
19. The Appellant testified that throughout 2023, they were in the process of working on their home so that they could convert it into an income-generating property, such as an Airbnb. The Appellant testified that they had housing-related expenses from this effort.

20. The Appellant testified that they went on the Health Connector website in 2023 to explore the possibility of obtaining health insurance and that according to the website, it would have cost them \$600 per month to purchase health insurance. The Appellant testified that they could not have afforded to spend \$600 per month on health insurance.
21. The Appellant testified that their sources of income in 2023 were their part-time job, unemployment compensation, and rental income from two other properties they own. The Appellant testified that while their rental income was consistent, the expenses associated with their properties were inconsistent and that taxes and insurance premiums skyrocketed.
22. The Appellant testified that they received two utility shutoff notices for their residence in 2023 because they were spending all of their money on fixing up their properties.
23. The Appellant testified that they estimated they had the following monthly personal expenses in 2023: \$600 for taxes, insurance, and utilities at their residence; \$85 for car insurance; \$150 for gas; \$23 for cellphone; \$600 for food; and \$40 for toiletries and household supplies.
24. The Appellant testified that they have recently been on the Health Connector website and that they plan to enroll in health insurance during the open enrollment period at the end of 2024.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the DOR's assessment of a 12-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

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

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

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

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$110 per month for health insurance, but according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$490 per month and therefore was unaffordable for them. Findings of Fact Nos. 13 and 14.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they did not have a job in 2023 that offered health insurance. Finding of Fact No. 18.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 12. I find, however, that the Appellant suffered financial hardship and that health insurance, even on a subsidized basis, was not affordable for them. I find the Appellant's testimony that they struggled financially in 2023 to be credible, and they provided utility shutoff notice in support of their assertion that they suffered a hardship. (Exhibit 2) and Finding of Fact Nos. 16 and 22.

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

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

#### **PENALTY ASSESSED**

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

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

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

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

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

Hearing Officer

cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-387

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 23, 2024

**Decision Date:** September 27, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 23, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 9, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 11, 2024.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.
- Exhibit 5: Health Connector Final Appeal Decision of 2018 Tax Penalty dated February 27, 2024.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 56 in February, 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Bristol County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$32,796 (Exhibit 2).
4. The Appellant had health insurance that met Massachusetts minimum essential coverage requirements (MCC) for the period of January through June but did not have health insurance for the period of July through December in tax year 2023 (Exhibit 2).
5. The Appellant has been assessed a three-month tax penalty. The Appellant filed an appeal of the assessment in April, 2024 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$32,796 could afford to pay \$112 per month for health insurance. In accordance with Table 4, the Appellant, age 56, living in Bristol County, could have purchased private insurance for \$490 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in tax year 2023.
8. The Appellant was financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$32,796 was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that their adjusted gross income figure does not accurately reflect their financial circumstances for all of tax year 2023. The Appellant explained that they lost their job on March 21, 2023 and did not become employed again until October 24, 2023. The Appellant said that they were paying a monthly health insurance premium until July and had to terminate the insurance because they could not afford the payment. The Appellant verified weekly unemployment compensation of \$436 effective April 29, 2024 and verified that \$218 was withheld weekly for past child support due. The Appellant's net monthly income was reduced to \$944 during the period of unemployment (Exhibit 4 and Appellant Testimony).
10. The Appellant's 2023 monthly expenses of \$1,160 included: rent-\$700; electricity-\$40; telephone-\$79; gas for the water heater-\$38; and food-\$303. In addition, the Appellant submitted copies of oil bills totaling \$1,574 for the months of January, February, November and December in tax year 2023. The Appellant said that they struggled to meet these expenses with little income during the period of April through October and experienced cell phone interruptions when they were unable to pay their bill on time (Exhibits 3, 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant had health insurance for the period of January through June but did not have health insurance for the period of July

through December in tax year 2023. The Appellant has been assessed a three-month penalty. The Appellant appealed the penalty in April, 2024.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$32,796 could afford to pay \$112 per month for health insurance. According to Table 4, the Appellant, age 56, living in Bristol County, could have purchased a private insurance plan for \$490 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would have been eligible for ConnectorCare coverage based upon the household's income that was less than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant's employment was terminated effective March 21, 2023. The Appellant received gross weekly unemployment compensation of \$436 for the period beginning April 29, 2023 and had \$218 deducted weekly for past due child support. The Appellant was not employed again until October 24, 2023. During this period the Appellant's monthly income was only \$944. The Appellant testified to significant monthly living expenses that in fact exceeded the Appellant's income for the months of April through October. In November and December, in addition to the monthly living expenses of approximately \$1,160, the Appellant had monthly oil bills of \$400. The Appellant testified credibly that it was difficult to meet these expenses with little to no income for the second half of tax year 2023 and in fact sporadically lost their telephone service due to their inability to pay the monthly bill. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. 956 CMR 6.08. The Appellant's three-month penalty is waived in full. 956 CMR 6.08(1).

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-388

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 23, 2024

**Decision Date:** September 27, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 23, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 9, 2024.

Exhibit 2: Appeal Case Information from Schedule HC- 2023.

Exhibit 3: Statement of Grounds for Appeal dated April 16, 2024, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 55 in May, 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Barnstable County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$39,196 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2023 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in April, 2024 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$39,196 could afford to pay \$158 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Barnstable County, could have purchased private insurance for \$490 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in tax year 2023.
8. The Appellant did not have access to employer sponsored health insurance in tax year 2023 (Appellant Testimony).
9. The Appellant was financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$39,196 was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant was living with their fiancée until January 20, 2023 when their fiancée died. The Appellant explained that they were responsible for all the rent and utility payments and was behind in their rent payments for several months. The Appellant's credible testimony is supported by a copy of their fiancée's death certificate as well as a printout of the Appellant's rent payments and arrearages in tax year 2023 (Exhibit 3 and Appellant Testimony).
11. The Appellant's 2023 monthly expenses of \$2,333 included: rent, heat and electric-\$1,025; telephone-\$50; car payment-\$275; car insurance-\$90; gasoline-\$200; food-\$520; and laundromat expenses-\$173. The Appellant said that they struggled to meet these expenses with their after-tax income and was consistently behind in their rent payments (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 2023 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months of tax year 2023. The Appellant has been assessed a twelve-month penalty. The Appellant appealed the penalty in April, 2024.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$39,196 could afford to pay \$158 per month for health insurance. According to Table 4, the Appellant, age 55, living in Barnstable County, could have purchased a private insurance plan for \$490 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant did not have access to employer sponsored health insurance in tax year 2023. The Appellant would have been eligible for ConnectorCare coverage based upon the household's income that was less than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant's fiancée sadly passed away in January 2023. As a result, the Appellant was solely financially responsible for their monthly rent of \$1,025 in addition to other living expenses. 956 CMR 6.08(1)(d)(2). The Appellant testified that they struggled to meet their living expenses with their after-tax income. The Appellant testified to significant monthly living expenses of approximately \$2,333. The Appellant verified that they were more than three months behind in their rent payments in tax year 2023. 956 CMR 6.08(1)(a). Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. 956 CMR 6.08. The Appellant's twelve-month penalty is waived in full. 956 CMR 6.08(1).

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-390

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 23, 2024

**Decision Date:** September 27, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 23, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 9, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated April 26, 2024.
- Exhibit 4: Appellant letter in support of this Appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 26 in April, 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Norfolk County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$82,070 (Exhibit 2).
4. The Appellant had health insurance for the period of January through April but did not have insurance for the period of May through December in tax year 2023 (Exhibit 2, 4).
5. The Appellant has been assessed a five-month tax penalty. The Appellant filed an appeal of the assessment in April, 2024 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$82,070 could afford to pay \$547 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Norfolk County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was affordable for the Appellant in tax year 2023.
8. The Appellant was not financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$82,070 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that they had health insurance through their parent until they reached age 26 in April 2023. The Appellant explained that in April they moved in with their partner after signing a lease for rent in the amount of \$2,300 per month. One week after the move the Appellant's partner became violently abusive. The Appellant said that they obtained a Protective Order that was in effect for one year, but in early May the Appellant's former partner broke into the apartment and ultimately was arrested for violating the Protective Order. The Appellant stated that due to the emotional turmoil they experienced during these months, the Appellant forgot about obtaining health insurance. The Appellant said that when things calmed down they tried to sign up for their employer's health insurance but was told that they missed the sixty-day time period and would have to wait for open enrollment. The Appellant said that they enrolled for tax year 2024 during the open enrollment period. The Appellant's credible testimony is supported by documentation from Norfolk District Court regarding the domestic violence case (Exhibit 4 and Appellant Testimony).
10. The Appellant testified that they were solely responsible for the monthly rent of \$2,300 as well as all utilities, food and transportation costs. The Appellant explained that they were afraid to leave their home and used door dash to get groceries delivered and Uber for transportation to their job which resulted in higher than usual expenses (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant had health insurance for the period of January through April but did not have health insurance for the period of May through December in tax year 2023. The Appellant has been assessed a five-month penalty. The Appellant appealed the penalty in April, 2024 citing domestic violence as the reason for their failure to obtain health insurance within 60 days of their loss of insurance as of May 2023.

The Appellant had health insurance through their parent for the period of January through April in tax year 2023. This coverage ended when the Appellant turned 26 in April. In April 2023, the Appellant moved in with their partner after signing a lease with monthly rent of \$2,300 that did not include utilities. Sadly, within one week of the Appellant's move the Appellant was a victim of domestic violence at the hand of their partner. The Appellant obtained a Protective Order from the Norfolk District Court that was valid for one year. In early May, the Appellant's former partner broke into the Appellant's apartment, became violent and was ultimately arrested.

The Appellant explained that due to the emotional upheaval during this period of time they forgot completely about health insurance. The Appellant said that when things calmed down they attempted to enroll in their employer's health insurance and was informed that they had missed the 60-day window to enroll after their insurance ended in April 2023. Health Connector has a similar 60-day restriction regarding open enrollment for health insurance coverage 956 CMR 12.10. The Appellant was informed that they would have to wait for the next open enrollment period to obtain health insurance through their employer. The Appellant enrolled as soon as they were able.

Due to domestic violence, the Appellant became solely financially responsible for rent, utilities, transportation and all other living expenses. The Appellant testified that they were afraid to leave their apartment to shop and travel and used services such as Door Dash and Uber which resulted in higher than expected living expenses. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. 956 CMR 6.08(1)(a),(3). The Appellant's five-month penalty is waived in full.

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA23-391

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 23, 2024

**Decision Date:** September 27, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 23, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated September 9, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: The Statement of Grounds for Appeal dated April 23, 2024
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 64 in July 2023, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$47,791 (Exhibit 2).
4. The Appellant had health insurance for the period of October through December but did not have health insurance for the period of January through September in tax year 2023. The Appellant was assessed a six-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2024 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant, filing the Federal tax return as a single person with no dependent claimed, with an annual adjusted gross income of \$47,791 could afford to pay \$303 per month for health insurance. In accordance with Table 4, the Appellant, age 64, living in Suffolk County, could have purchased private insurance for \$490 per month (Schedule HC for 2023). Private insurance was not affordable for the Appellant in 2023.
8. The Appellant was not eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$47,791 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant testified that they had many part time employers in tax year 2023 and as a part time employee did not have access to employer sponsored health insurance. The Appellant explained that one of the employers became full time making the Appellant eligible for employer sponsored health insurance in October 2023. The Appellant said that they signed up as soon as they became eligible (Exhibit 2 and Appellant Testimony).
10. The Appellant submitted documentation verifying eviction proceedings and utility shut off notices for tax year 2023 (Exhibit 4).
11. During the months of January through September in tax year 2023 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-2023 (Exhibits 2, 3, 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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



In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependent claimed with an adjusted gross income of \$47,791 could afford to pay \$303 per month for health insurance. According to Table 4, the Appellant, age 64, living in Suffolk County, could have purchased a private insurance plan for \$490 per month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant testified credibly that they did not have access to employer sponsored health insurance for the period of January through September in tax year 2023 because they had multiple part time employers and did not qualify for health insurance as a part time employee. The Appellant became a full-time employee at one company in October 2023 and enrolled in health insurance as soon as they became eligible.

The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$47,791 was greater than 300% of the federal poverty level, which was \$40,770 for a tax household of one in 2023.

The Appellant had no affordable health insurance available to them for the period of January through September in tax year 2023 through employment, the private market or through a government program such as ConnectorCare. Because of this, the six-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 2023.

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

**PENALTY ASSESSED**

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

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

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

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

cc: Health Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA212215

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

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

**Hearing Date:** March 22, 2024

**Decision Date:** October 10, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on March 22, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until April 24, 2024 to give Appellant time to submit additional evidence. A document was received from the appellant was received on May 7, 2024. It has been marked as an exhibit and admitted in evidence. The record is now closed.

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 April 28, 2022 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2021

Exhibit 2a: Information sheets from Schedule HC for 2021 showing dismissal and vacating of dismissal

Exhibit 3: Notice of Hearing sent to Appellant dated February 9, 2024 for March 22, 2024 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated January 9, 2023 for January 23, 2023 hearing

Exhibit 4: 1095A for 2021 issued by exchange in North Carolina showing coverage January, 2021 through May, 2021

Exhibit 5: Letter from Appellant to Department of Revenue requesting vacating of dismissal dated February 6, 2023

Exhibit 6: Appeals Unit letter to Appellant dated March 25, 2024 regarding open record request with request form attached

Exhibit 7: 2021 1095C form showing offer of health insurance for Appellant from April 1, 2021 through November 30, 2021 with email from Appellant dated May 7, 2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2021 (Exhibit 2, Testimony of Appellant).

2. Appellant resided in Norfolk County in 2021. She had resided in another state in 2020, moving to Massachusetts at the beginning of January, 2021 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$49,890 in 2021. Appellant was unemployed in January, 2021. She had been unemployed in 2020 also because of the Covid pandemic (Testimony of Appellant, Exhibit 2).
4. Appellant obtained employment in February, 2021. The appellant was offered health insurance through the job, but she would not have coverage until May 1, 2021. The appellant enrolled in the plan offered. Appellant left this job in November, 2021. She got a new job which also had health insurance benefits. Appellant enrolled. Neither plan complied with Massachusetts standards (Testimony of Appellant, Exhibits 2 and 7).
5. Appellant had health insurance through the North Carolina exchange from January through May, even though she no longer resided in the state. This plan met Federal standards, but did not meet Massachusetts standards (Testimony of Appellant, Exhibit 4).
6. 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.
7. According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$49,890 could afford to pay \$315 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Norfolk County, could have purchased insurance for \$263 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2021 Tables 3 and 4, Exhibit 2).
8. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses because of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2021 (Testimony of Appellant).
11. Appellant did not receive shut-off notices for basic utilities in 2021 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in her rent payment in 2021 (Testimony of Appellant).
13. The appellant had the following monthly expenses for basic necessities in 2021: rent including heat-\$1,800; electricity-\$70; telephone and internet-\$200; food, personal care and household items-\$1,000; clothing-\$200; car insurance-\$100; gas-\$100; car repairs-\$200. In addition, Appellant had to pay first and last month's rent, and a broker's fee which equaled one month's rent. She also had \$6,000 in moving expenses in January when she moved to the Commonwealth (Testimony of Appellant).
14. At the time of this hearing, Appellant was unemployed and was covered by MassHealth (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 2021 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 minimum creditable coverage standards in 2021. Appellant had insurance during the year, but the coverage was out-of-state coverage and/or did not meet Massachusetts standards. The appellant has appealed the assessment. There is no evidence in the record to show that either plan substantially met the Commonwealth’s standards. See Exhibits 1, 2, 4, 7, and the testimony of the appellant.

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 2021, the appellant with no dependents claimed with an adjusted gross income of \$49,890 could afford to pay \$315 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Norfolk County could have purchased insurance for \$263 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2021 Tables 3 and 4; Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$49,890, more than the income limit for one person (\$38,280). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2021. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was unemployed in January, 2021. She then obtained work and her employer offered health insurance. Appellant could enroll after she had been on the job for 90 days. She enrolled as of May 1, 2021. The insurance did not meet Massachusetts standards according to the appellant’s Massachusetts tax return. See the testimony of the appellant which I find to be credible; and Exhibit 2. The insurance appellant had from January through May was offered by the North Carolina Affordable Care Act exchange. While it met Federal standards, it did not meet Massachusetts standards. Appellant had no access to health insurance provided by an employer which met the Commonwealth’s minimum creditable coverage standards. See Exhibit 2.

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

Appellant had the following expenses for basic necessities during 2021: rent including heat-\$1,800; electricity-\$70; telephone and internet-\$200; food, personal care and household items-\$1,000; clothing-\$200; car insurance-\$100; gas-\$100; car repairs- \$200. These came to approximately \$3,700 a month, not including whatever she was paying for the non-compliant health insurance she had throughout the year. In addition, Appellant had to pay first and last month's rent, and a broker's fee which equaled one month's rent. She also had \$6,000 in moving expenses in January when she moved to the Commonwealth. These expenses related to Appellant's relocation to the Commonwealth came to \$11,400 for the year. See the testimony of Appellant.

If subtract relocation expenses from the appellant's adjusted gross income, Appellant was left with \$38,490 gross for the year, or about \$3,200 a month to cover expenses. This means that Appellant ran a deficit of about \$500 a month before she paid taxes. Insurance through the individual market would have cost about \$300 a month (See Table 4 from 2021 HC). If she had purchased health insurance, Appellant would have had an even higher deficit each month.

Based upon the evidence summarized above, I determine that Appellant's penalty is waived because the cost of purchasing health insurance would have caused her to have a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e).

Appellant should note that any waiver granted here is for 2021 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 2021.

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA22-1275

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

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

**Hearing Date:** April 19, 2024

**Decision Date:** October 27, 2024

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellants appeared at the hearing which was held by telephone on April 19, 2024. The procedures to be followed during the hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellants. Appellants testified.

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

Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellants on May 10, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated March 12, 2024 for April 19, 2024 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated December 12, 2023 for January 26, 2024 hearing

Exhibit 4: Summary of health insurance plans offered to Appellant for 2023-2024

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, who filed a 2022 Massachusetts tax return jointly with no dependents claimed, were 34 and 35 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in the Commonwealth until the end of November, 2022. In early December, the appellants moved out of state (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2022 was \$115,101 (Exhibit 2, Testimony of Appellant).
4. One of the appellants had a job from January through June. He earned about \$7,920 gross per month. At the end of June, this appellant lost his job. After he lost his job, he earned about \$10,000 from July through September doing contract work. He had no income the last three months of the year (Testimony of Appellant).
5. The other appellant was employed all year. She earned \$45,000 for the year, or \$3,750 gross a month (Testimony of Appellant).

6. The appellants had health insurance which met the Commonwealth's minimum creditable coverage standards from January through June. They had health insurance through one of the appellants' job. When this appellant lost his job, the couple lost their insurance. The other appellant could have obtained coverage through her job, but the coverage did not meet the Commonwealth's standards. It had an annual deductible of \$10,200 for a family. Appellant worked for an out-of-state company. The couple did not enroll in the offered coverage. They were uninsured for the rest of the year (Testimony of Appellant, Exhibits 2, and 4).

7. The appellants have been assessed a tax penalty for two months each, October and November (Exhibit 2).

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

9. According to Table 3 of Schedule HC for 2022, the appellants with no dependents claimed with an adjusted gross income of \$115,101 could afford to pay \$767 per month for health insurance. According to Table 4, Appellants, 34 and 35 years old, could have purchased insurance for \$580 per month for a plan. Health insurance through the individual market was affordable for the appellants in 2022 (Schedule HC for 2022, Exhibit 2).

10. According to Table 2 of Schedule HC for 2022, Appellants, with no dependents, earning more than \$52,260, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2022, 956 CMR 12.00 et. seq.).

11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

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

13. Appellants did not receive a shut-off notice for any utility during 2022 (Testimony of Appellant).

14. Appellants had the following monthly expenses for basic necessities in 2022: rent and heat-\$2,300; electricity-\$150; telephone-\$100; internet-\$80; food, personal care items, household items-\$865; clothing-\$350; car insurance-\$250; gas-\$390; car payments-\$450; old credit card debt-\$650. They also had \$1,400 in moving expenses. (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. Appellants had insurance which met the Commonwealth's minimum creditable coverage standards from January through June. The appellants are entitled to a three-month grace period after losing their coverage. In addition, Appellants moved out of the Commonwealth in the beginning of December. Appellants have both been assessed a penalty for two months, October and November. Appellants have appealed the penalty. See Exhibits 1 and 2, and Massachusetts General Laws Chapter 111M, Section 2.

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. 45 CFR Section 155.305 and 26 CFR Section 1.36B-2 provide eligibility requirements for advance premium tax credits.

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

According to Table 3 of Schedule HC for 2022, the appellants with no dependents claimed with an adjusted gross income of \$115,101 could afford to pay \$767 per month for health insurance. According to Table 4, Appellants, 34 and 35 years old, could have purchased insurance for \$580 per month for a plan. Health insurance through the individual market was affordable for the appellants in 2022. Coverage through the individual market was affordable for the appellants in 2022. See Schedule HC for 2022, Tables 3 and 4, and Exhibit 2.

The appellants had health insurance which met the Commonwealth’s standards from January through June. When the appellant whose employer offered the coverage lost his job, the couple became uninsured. This appellant was self-employed for a few months and then was unemployed in October and November. The other appellant could have obtained coverage through her job, but the health insurance did not meet the Commonwealth’s standards. For example, the offered plan had a deductible for the family of \$10,200. Under Massachusetts’ standards, the deductible could be no greater than \$5,500. See the testimony of the appellant which I find credible and Exhibit 4. The couple had no access to affordable health insurance through employment which met the Commonwealth’s standards in October and November, the months for which the couple has been assessed a tax penalty.

According to Table 2 of Schedule HC for 2022, Appellants, with no dependents, earning more than \$52,260, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income. See Exhibit 2, Table 2 of Schedule HC-2022, 956 CMR 12.00 et. seq. There is no evidence in the record that Appellant was eligible for any other government-sponsored plan.

Since Appellants had access to affordable insurance through the individual market, we need to determine if the appellants experienced a financial hardship making coverage unaffordable for them. See 956 CMR 6.08 et. seq.

During the months for which the appellants have been assessed a tax penalty, October and November, one appellant was unemployed and had no earnings. The other earned \$3,750 before taxes each month. There expenses for basic necessities came to approximately \$5,550 a month. See expenses detailed in Findings of Fact above. Appellants ran a significant deficit each month. If we add in the expense of purchasing health insurance on the individual market, approximately \$580 a month, the deficit would have been greater.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the appellants to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). The purchase of health insurance was, therefore, not affordable for the appellants during October and November. The penalty assessed is be waived.

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



**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: Connector Appeals Unit

Hearing Officer