

How to file an appeal to the individual mandate penalty

Now that Massachusetts residents are legally required to have health insurance, we have to prove we have it when we fill out our state income taxes. So, beginning with the 2007 tax year, Massachusetts will be requiring everyone who files state income taxes to also fill in a new form – Schedule HC: Health Care Information.

In Schedule HC, you have to show that you had health insurance during the tax year – or, if you didn't have insurance, this is your chance to give a reason why you should not have to pay a penalty. For the 2007 tax year, the penalty will be the loss of your personal exemption, worth \$219. (In 2008, the penalties accumulate monthly and are more severe – but you do not have to pay those until April of 2009 when you file 2008 taxes.)

If you did not have insurance on December 31, 2007 – and after filling out Schedule HC, it looks like you will lose your personal exemption – you can file an appeal. If you win an appeal, you will be considered exempt from the health insurance law for that tax year and will not have to pay any penalty.

Reasons to file an appeal

Anyone can choose to file an appeal. You should file an appeal if:

- The “affordability schedule” says that you could afford insurance, but you actually *couldn't* afford insurance because of financial hardship.
- You had insurance in 2007, but you had a gap in coverage that included December 31. The law allows for a gap in insurance coverage of up to 63 days per calendar year.
- You applied for Commonwealth Care in time for the December deadlines (applied and sent your premium in by December 20 for premium-paying plans, or applied by December 28 for plans with no premiums) but some administrative process kept you from being insured by the cut-off date for those plans - January 1, 2008.
- You applied for a Young Adult Plan by the deadline of December 24, but some administrative process kept you from being insured by the cut-off date for those plans - January 1, 2008.
- You applied for MassHealth by December 31, but for whatever reason, your coverage did not begin until after the cut-off date of December 31, 2007.

How to start the appeal process

The first step to filing an appeal is to fill out Schedule HC. ***For your appeal to be accepted, you must:***

- Fill in the tiny little oval at the bottom of Page 2 of Schedule HC, under the heading “Appeals.” If you don't, the Department of Revenue won't even look at your appeal.
- Fill out Schedule HC-A, which is on page 3 of Schedule HC:
 - Fill in the oval in Line 1, which gives permission to share your information with the Connector. If you don't, your appeal will be denied.
 - Choose a reason from Lines 2a-2g. If you are filing an appeal due to one of the administrative reasons listed on page 1 of this guide, choose 2g: “Other.” If you are filing an appeal due to financial hardship, choose the circumstance that best applies to your situation. **Don't** provide any additional documentation yet.

Note: If you already filed your taxes but did not request an appeal correctly, you can file a tax abatement using Form CA-6 (available at <http://tinyurl.com/yqsaxu>). This means you submit your taxes over again, including Schedule HC.

What to do next – after sending in Schedule HC

- Keep a sharp eye out for a letter from the Department of Revenue about “Statement of Grounds.” Once you receive this letter, you have a **strict 30 days** to send it back with all documentation.
- Gather as much relevant documentation as possible to send back with the “Statement of Grounds.” **Keep the originals** – send copies only. Examples of what you could include are:
 - Proof of financial hardship within the category you chose in Lines 2a-2g of Schedule HC (i.e., a shut-off notice, copies of medical bills)
 - If you are trying to show that an administrative issue prevented you from being enrolled in, you could include documentation such as:
 - A canceled premium check (i.e., if you sent it in by the deadline but were not enrolled by the cut-off date)
 - Records of relevant communications with MassHealth or the Connector
 - Affidavits: An affidavit is a sworn statement -- it gives you the opportunity to state facts that you do not have other records for (such as communications you had, or life circumstances that caused financial hardship). After writing an affidavit, you need to get it officially stamped by a notary public – which you can get done at most banks for free.

After I respond to the “Statement of Grounds,” then what happens?

- The Department of Revenue will review your appeal. If they do not approve it, they will refer it to the Connector. The Connector will review your appeal, and they may give you a hearing. (If you have ever participated in the MassHealth Board of Hearings process, the Connector process is similar.)
 - If your appeal is granted, you will not lose your personal exemption.
 - If your appeal is denied, you have the right to challenge that decision in court. You can file an appeal with the Superior Court for the county you live in (or Suffolk County Superior Court) within thirty days of receiving the decision.

You do not have to pay any penalty until there is a final decision. If, in the end, you lose the case, you will be billed for the penalty amount..

Additional Resources:

For help with filling out Schedule HC –

- Health Care For All's Guide to Filling Out Schedule HC: <http://tinyurl.com/2y4s4o>
- MA Department of Revenue's Virtual Tour of Schedule HC: <http://tinyurl.com/22zbo6>

Other relevant information –

- Information from the Connector about the affordability tool and the appeals process: <http://tinyurl.com/2hkoph>
- Schedule HC and its instructions: <http://tinyurl.com/2u64ps>