

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-288

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 24, 2020

**Decision Date:** April 7, 2020

## **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 24, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 19, 2020
- Exhibit 4: Prior Hearing Date documents

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-four years old and is single. She lives in Bristol County, Massachusetts.
2. Appellant works in the restaurant business.
3. Appellant lived in Florida in 2018 and left her job. She could not find another job in Florida and decided to move back to Massachusetts. She lived with her father until she could find a job. Once Appellant obtained a job it took several months for her background check to be completed. Appellant did not start work until June 2018. Appellant had lived in Florida for over a decade and was unaware of the Health Connector and the requirements of the Commonwealth of Massachusetts. She needed to save money to obtain an apartment for first and last months rent. Appellant is still working in the restaurant business and is uncertain of the hours she will be working.
4. She did have health insurance in 2019 mid-way through the year. She does not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,890.00, consisting of rent \$850.00, heat and light 150.00, internet and cable \$100.00, cell phone \$40.00, transportation \$300.00, food \$200.00, clothing \$30.00, toiletries 30.00, entertainment \$100.00, cat food \$30.
6. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, "During 2018, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice" and :During 2018 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable" The Appellant should have also appealed under the grounds of "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under all grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$20,018.00 was less than \$36,180.00. The monthly premium for health insurance available on the private market in Bristol County for a 33 year old single person was \$282.00.

The tables reflect that Appellant could afford \$248.37. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice” and :During 2018 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable” The Appellant should have also appealed under the grounds of “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under all grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$20,018.00 in 2018, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$48.37 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 282.00 monthly for coverage. *Id.* at Table 4.

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

Appellant moved from Florida to Massachusetts because she left her job in Florida and could not find another job. When she moved to Massachusetts she could not find a job for a period of time and lived with her father. She works in the restaurant industry and is uncertain of her job at this time. Appellant had lived in Florida for over a decade and was unaware of the Health Connector and the requirements of the Commonwealth of Massachusetts.

Appellant is deemed to afford \$48.37 for health insurance coverage because of her income. Private insurance in the market place was \$282.00 per month, which is less than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2018 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA19-10

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

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

**Hearing Date:** April 23, 2020

**Decision Date:** April 30, 2020

**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 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.1(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/17/20. (2 PP).
- Exhibit 2(a): Appellant's Supporting Statement Correspondence and Documentation (12 PP).
- Exhibit 3: Notice of Hearing dated March 9, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 58 in 2019, lived in County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant was laid off from her job in April 2019. (Testimony of Appellant).
3. Appellant testified she was unable to afford medical insurance after she was laid off. (Testimony of Appellant, Exhibit 2(a), P.11).
4. Appellant testified she did collect unemployment for twenty-six (26) weeks at less than \$425 a week. (Testimony of Appellant).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. Appellant lived in Florida from April 2019 to August 2019 in an attempt to find employment. (Testimony of Appellant, Exhibit 2(a), PP1-5 documentation reflecting the Appellant received mail in Florida from April through July 2019).
6. Appellant returned to Massachusetts at her current address in August 2019. (Testimony of Appellant, Exhibit 2(a), P.11).
7. Appellant testified that she had no income in September and October and did not know she could obtain coverage through public insurance until she inquired with MassHealth in October 2019.
8. Appellant obtained coverage in November and December 2019 through MassHealth. (Testimony of Appellant, Exhibit 2(a), P.10-1095B).
9. Appellant's Federal Adjusted Gross Income for 2019 was \$27,768 (Exhibit 1).
10. Appellant has been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant testified she could not afford insurance during the time she was unemployed because the premiums would not have allowed her to pay for basic necessities including utilities, and food. (Testimony of Appellant, Exhibit 2(a), P.11).
12. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$900, Car Payment: \$323, Car Insurance: \$75, Food/Incidentals \$480, Credit Cards \$200, Life Insurance Premium: \$46, totaling \$2,024/month. (Testimony of Appellant).
12. According to Table 3 Appellant could have afforded \$97.17 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$418.00 per month.
13. Appellant signed up for health insurance with MassHealth in November 2019. (Testimony, Exhibit 2(a), P.10).
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant as grounds for her appeal, submitted: Other: . . . [that you didn't reside in Massachusetts during your period of uninsurance as grounds for her appeal. (Testimony, See Exhibit 2, 2(a)1-5 showing the Appellant's receiving mail in Florida from April through July 2019).

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

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that health insurance was not able to obtain insurance after she was laid off and during the time she obtained part time employment later in 2019. (Testimony of Appellant).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$ 27,768.00 in 2019 and could have afforded \$97.18 per month to purchase affordable insurance. According to Table 4, Appellant, age 58 and living in Worcester County during a portion of the time she was being penalized for not having insurance, could have purchased insurance for \$418.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant's income was substantially reduced during the time she was unemployed during the time she was uninsured, and she had access to insurance through the ConnectorCare program, we need to determine if she experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq.

The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. 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 Appellants' tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

Appellant testified that she had the following monthly expenses for basic necessities in 2019: Rent: \$900, Car Payment: \$323, Car Insurance: \$75, Food/Incidentals \$480, Credit Cards \$200, Life Insurance Premium: \$46, totaling \$2,024/month. (Testimony of Appellant).

Given the totality of the circumstances including that the Appellant credibly testified that she lived in Florida until August, and although she delayed a obtaining insurance after returning to Massachusetts, she acquired insurance in November. Further, I find that the cost of basic monthly expenses for necessities forced her to make choices to pay for basic living necessities rather than purchasing health insurance, I determine that pursuant to 956 CMR 6.08 (1)(e), and (3), the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 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**



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-11

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** April 23, 2020  
**Decision Date:** April 30, 2020

**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 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/10/20. (2 PP).
- Exhibit 2(a): Appellant's Supporting Statement Correspondence and Documentation-Gas Shutoff Termination Notice (3 PP).
- Exhibit 3: Notice of Hearing dated March 9, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 48 in 2019, lived in Worcester County, and had two (2 ) dependents. (Exhibit 1).
2. Appellant worked as an Officer Coordinator at and hourly rate of \$16.74. (Testimony of Appellant).
3. Appellant testified she investigated obtaining employer health insurance but was unable to afford the cost. (Testimony of the Appellant).
4. Appellant testified she became behind on her rent and utilities and was unable to afford medical insurance in June 2019. (Testimony of Appellant, Exhibit 2(a), P.1).
5. Appellant testified her 21year-old Daughter and Disabled Boyfriend live with her but do not contribute the

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

- expenses. (Testimony of Appellant).
6. Appellant testified her Daughter and Boyfriend had their own health insurance coverage. (Testimony).
  7. Appellant testified she received a final notice of termination from her utility provider in June 2019 for \$1,846 and was able to go on a payment plan to avoid having the gas shutoff. (Testimony of Appellant, Exhibit 2(a), P.2).
  8. Appellant testified she lost her insurance as of June 1, 2019 because she could not afford the premium because of her basic monthly expenses. (Testimony of Appellant, Exhibit 2(a), P.2).
  9. Appellant testified she was 2 to 3 months behind in her monthly rent was able to work with the landlord. (Testimony of Appellant).
  10. Appellant's Federal Adjusted Gross Income for 2019 was \$35,020 (Exhibit 1).
  11. Appellant has been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
  12. Appellant testified she could not afford insurance during the time because the premiums would not have allowed her to pay for basic necessities including utilities. (Testimony of Appellant, Exhibit 2(a), P.2).
  13. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$950, Car Insurance: \$100, Utilities (Gas and Electric): \$240, Food/Incidentals-approximate monthly average-\$500, Gas for the Car: \$240, Internet: \$80, totaling \$ 2,110/month. (Testimony of Appellant).
  14. According to Table 3 Appellant could have afforded \$180.94 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for herself for \$ 350.00 per month.
  15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to her during 2019 because she received a shut-off notice, was shut off, or was refused delivery of essential utilities and that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.

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

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that she had to make the choice to stop purchasing health insurance because she was behind in paying her utilities and received a final termination notice. (Testimony of Appellant, Ex. 2(a)PP1-2)).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$35,020.00 in 2019 and could have afforded \$180.94 per month to purchase affordable insurance. According to Table 4, Appellant, age 48 and living in Essex County during the time she was being penalized for not having insurance, could have purchased insurance for \$350.00 per month for an individual plan where she testified her dependent's had health insurance. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant had access to insurance through the ConnectorCare program, we need to determine if she experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. 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 Appellants' tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The appellant's testimony regarding the shutoff of her gas service was corroborated by a notice indicating that her service was threatened with termination in June 2019. Appellant testified that he had the following monthly expenses for basic necessities in 2019: Rent: \$950, Car Insurance: \$100, Utilities (Gas and Electric: \$240, Food/Incidentals-approximate monthly average-\$500, Gas for the Car: \$240, Internet: \$80, totaling \$ 2,110/month. (Testimony of Appellant).

Given the totality of the circumstances including that the Appellant credibly testified that she received a final termination notice for her gas utility and was also behind on the rent for two to three months, I find that the cost of basic monthly expenses for necessities forced her to make choices to pay for basic living necessities rather than purchasing health insurance, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Accordingly, it is concluded that the appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b), (e) and (3) as a result of which she should not be subject to a penalty.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 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.



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-14

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

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

**Hearing Date:** April 23, 2020

**Decision Date:** April 30, 2020

**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 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).

Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/20/20. (2 PP).

Exhibit 2(a): Appellant's Supporting Statement Correspondence and Documentation- Termination Notice (14 PP).

Exhibit 3: Notice of Hearing dated March 9, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 26 in 2019, lived in Middlesex County, and had no dependents. (Exhibit 1).
2. Appellant turned 26 years of age in early 2019 and no longer had health insurance coverage under her parent's plan. (Testimony, Exhibit 2(a), P.3).
3. Appellant worked as Part Time Bartender at the time she did not have health insurance coverage. (Testimony of Appellant).
4. Appellant testified she investigated obtaining employer health insurance but because of her part time status was not eligible. (Testimony of the Appellant, Exhibit 2(a) P. 1).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. Appellant testified she became three (3) months behind on her share of the rent in early 2019 in the amount of \$2,550 and was served an eviction notice. (Testimony of Appellant, Exhibit 2(a), P.2).
6. Appellant testified she had 14 days to pay the balance and legal fees. (Testimony, Exhibit 2(a), P.3).
7. Appellant testified she had to seek assistance from her family for payment and it took her until April 2019 to pay them back. (Testimony, Exhibit 2(a), P.3).
8. Appellant's Federal Adjusted Gross Income for 2019 was \$43,687 (Exhibit 1).
9. Appellant testified her income was substantially reduced in 2019 because of reduction in due to external construction issues affecting her restaurant and her net earnings fell below \$600/week which would have resulted in her earning below the income limit for a single person during those months. See Table 2 of Schedule HC. (Appellant's Testimony, Exhibit 2(a) PP 1-11).
10. Appellant investigated purchasing insurance but could not afford the monthly premiums because of her reduction in income and rent arrears situation. (Appellant's Testimony, Exhibit 2(a) PP 1-2).
11. Appellant testified she was able to become eligible for employer health insurance in late December 2019.
12. Appellant testified she was recently laid off due to the Covid 19 pandemic and has lost her insurance.
13. Appellant testified she is waiting on unemployment.
14. Appellant testified she could not afford insurance during the time because the premiums would not have allowed her to pay for basic necessities including rent. (Testimony of Appellant, Exhibit 2(a), P.2).
15. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$850, Utilities: \$50., Food/Incidentals: \$200, Transportation Costs: \$190: Cell Phone \$70, Student Loan \$75, Credit Cards: \$170, totaling \$1,605/month. (Testimony of Appellant).
16. Appellant has been assessed a tax penalty for eight (8) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
17. According to Table 3 Appellant could have afforded \$276.28 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for herself for \$ 257.00 per month.
18. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for eight (8) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to her during 2019 because she was more than 30 days in arrears in rent and that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that she had to make the choice to stop purchasing health insurance because she was behind in paying her utilities and received a final termination notice. (Testimony of Appellant, Ex. 2(a)PP1-9)).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$43,687.00 in 2019 and could have afforded \$276.68 per month to purchase affordable insurance. According to Table 4, Appellant, age 26 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where individual coverage was affordable through the individual market for the Appellant, we need to determine if she experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. 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 Appellants’ tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The appellant’s testimony regarding the eviction notice was corroborated by reference to a 14 day notice to quit in February 2019. Appellant testified that he had the following monthly expenses for basic necessities in 2019 Rent: \$850, Utilities: \$50., Food/Incidentals: \$200, Transportation Costs: \$190: Cell Phone \$70, Student Loan \$75, Credit Cards: \$170, totaling \$1,605/month. (Testimony of Appellant).

Given the totality of the circumstances including that the Appellant credibly testified that she received an eviction notice, was behind on the rent for three (3) months, I find that the cost of basic monthly expenses for necessities forced her to make choices to pay for basic living necessities rather than purchasing health insurance. Accordingly, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. It is concluded that the appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b), (e) and (3) as a result of which she should not be subject to a penalty.

The Appellant’s penalty is, therefore, waived.



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-44

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** April 28, 2020  
**Decision Date:** April 30, 2020

**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 28, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/15/2020. (2 PP).
- Exhibit 3: Notice of Hearing dated March 12, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 24 in 2019, lived in Barnstable County, and had no dependents. (Exhibit 1).
2. Appellant moved from Ohio to Massachusetts in the beginning of 2019 and did not realize that Massachusetts had an individual mandate unlike Ohio. (Testimony, Exhibit 2(a), P.3).
3. Appellant worked as Part Time Bartender at a restaurant beginning in May 2019 and did not have access to employer health insurance coverage. (Testimony of Appellant).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$29,925 (Exhibit 1).
5. Appellant testified his part time earnings netted him approximately \$2,000 per month (Appellant's Testimony)

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of his 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

6. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$800, Utilities: \$150, Food/Incidentals: \$400, Car Payment: \$ 200, Car Insurance \$350, Gas: \$120, totaling \$2,020/month. (Testimony of Appellant).
7. Appellant also had moving costs of \$2,000 and \$600 in car repairs he was paying in 2019. (Testimony of Appellant).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. According to Table 3 Appellant could have afforded \$104.74 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for himself for \$257.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to Other. In his testimony he also raised other grounds that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$29,925.00 in 2019 and could have afforded \$104.74 per month to purchase affordable insurance. According to Table 4, Appellant, age 24 and living in Barnstable County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant had access to insurance through the ConnectorCare program, we need to determine if he

experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may 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 2019. 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 Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused his to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Rent: \$800, Utilities: \$150., Food/Incidentals: \$400, Car Payment: \$ 200, Car Insurance \$350, Gas: \$120, totaling \$2,020/month (Testimony of Appellant). He also credibly testified he had other major expenses in 2019 including moving costs of \$2,000 and \$600 in car repairs he was paying in 2019. (Testimony of Appellant).

Where the twenty four 24 year old Appellant credibly testified that he moved to Massachusetts in 2019 and did not realize he was required to obtain health insurance and after applying the three (3) month waiting period, I find that the appellant's amount of net income for the remainder of the year when he was uninsured was subsumed in the cost of his basic expenses for necessities. Given the totality of the circumstances, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. It is concluded that the appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b), (e), and (3), and as a result of which he should not be subject to a penalty.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 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 2019.

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

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

Cc: Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-45

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

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

**Hearing Date:** April 28, 2020

**Decision Date:** April 30, 2020

**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 28, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.1(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/15/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (2 PP).
- Exhibit 3: Notice of Hearing dated March 12, 2020. (3PP).
- Exhibit 4: Prior Final Appeal Decisions: PA 18-64 and PA 16-7 (6PP)

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 63 in 2019, lived in Barnstable County, and had one dependent. Appellant is the guardian of her grandson (Testimony, Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$43,550 (Exhibit 1).
3. Appellant testified her job was seasonal and her hours varied from season to season. Appellant was not offered health insurance through her job. (Appellant's Testimony).
4. Appellant was paid \$18.25 an hour. (Appellant's Testimony).
5. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,300, Utilities: \$200., Cable Internet: \$180, Food/Incidentals: \$600, Car Payment: \$350, Car Insurance \$100, Gas: \$200, Day Care Summer

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

Months averaged annually: \$205, Dental Insurance \$50, Credit Card \$143: totaling \$4,628. /month. (Testimony of Appellant).

6. Appellant also had Monthly payment plan for dental work of \$143 commencing in December. (Testimony of Appellant)

7. The Appellant testified she was able to procure employer health insurance in January 2020 after changing employment. (Testimony of Appellant).

8. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).

9. According to Table 3 Appellant could have afforded \$266.74 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for herself for \$418 per month.

10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The appellant submitted a statement of grounds for appeal (Ex. 2) claiming that that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$43,550.00 in 2019 and could have afforded \$266.74 per month to purchase affordable insurance. According to Table 4, Appellant, age 63 and living in Barnstable County during the time she was being penalized for not having insurance, could have purchased insurance for \$418.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).



If the appellant still does not have health insurance, she may want to contact the Connector to find out if she is now eligible for a Connector Plan or ConnectorCare. She is advised to investigate her eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-46

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** April 28, 2020  
**Decision Date:** April 30, 2020

**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 28, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/15/2020. (2 PP).
- Exhibit 3: Notice of Hearing dated March 12, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 49 in 2019, lived in Norfolk County, and had no dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$32,785 (Exhibit 1).
3. Appellant worked as Part Time Bartender from January to April 2019 and was not offered employer health insurance coverage. (Testimony of Appellant).
4. Appellant became employed full time as a bartender in April 2019 but his hours and earnings varied where it depended on the season. (Testimony of Appellant).
5. Appellant was paid \$7/hour plus earnings from tips. (Testimony of Appellant).
6. Appellant testified his monthly net pay varied throughout the year ranging from \$750/month to \$2,000.

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of his 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

(Testimony of Appellant).

7. The Appellant did not qualify for health insurance with the new employer because initially he did not work enough hours and also had to wait for open enrollment in October 2019. (Testimony of Appellant).
8. Appellant was offered employer health insurance in October 2019 but could not afford the employee premium of \$300 per month. (Testimony of Appellant).
9. Appellant investigated obtaining insurance through the Connector and became eligible in December effective January 2020. (Testimony of Appellant).
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent and Utilities Contribution: \$1,000, Cell Phone: \$65, Car Insurance \$114, Gas: \$200, Personal Loan for bill consolidation: \$460, Cable/Internet: \$166, totaling \$2,005/month. (Testimony of Appellant).
11. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$136.60 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for himself for \$350.00 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him and that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$32,785.00 in 2019 and could have afforded \$136.60 per month to purchase affordable insurance. According to Table 4, Appellant, age 49 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$350.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant had access to insurance through the ConnectorCare program, we need to determine if he experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may 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 2019. 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 Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused his to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Rent and Utilities Contribution: \$1,000, Cell Phone: \$65, Car Insurance \$114, Gas: \$200, Personal Loan for bill consolidation: \$460, Cable/Internet: \$166, totaling \$2,005/month. (Testimony of Appellant).

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e). In 2019, almost of all his monthly income was spent on basic necessities. The appellant's varied take home pay was subsumed in the cost of his basic expenses for necessities. It is concluded that the appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e).

I also note that Appellant obtained insurance through the Connector in 2020.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 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:   12  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2019.

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

If the appellant still does not have health insurance, she may want to contact the Connector to find out if she is now eligible for a Connector Plan or ConnectorCare. He is advised to investigate her eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-47

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

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

**Hearing Date:** April 28, 2020

**Decision Date:** April 30, 2020

**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 28, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/20/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (2 PP).
- Exhibit 3: Notice of Hearing dated March 12, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was married in August 2019, was age 27 in 2019, lived in Middlesex County for part of the year before moving to Worcester County in August, and had zero dependents. (Testimony, Exhibit 1).
2. Appellant and her Spouse filed their 2019 tax returns married filing jointly and their Federal Adjusted Gross Income for 2019 was \$115,828(Exhibit 1).
3. The Appellant indicated her share of the 2019 gross earnings was approximately \$55,000. (Testimony of Appellant).
4. Appellant testified she was married in August 2019 and with her husband purchased a home Worcester County. (Appellant's Testimony).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. Appellant worked two (2) part jobs neither of whom offered health insurance. (Appellant's Testimony, Exhibit 2(a)).
6. Appellant investigated health insurance through the Connector but testified the premium was unaffordable. (Appellant's Testimony).
7. Appellant was able to obtain health insurance through her Spouse's Employer in August 2019. (Appellant's Testimony, Exhibit 1).
8. Appellant had the following monthly expenses for basic necessities in 2019 during the time she was uninsured: Rent/Mortgage: \$1,950, Student Loan \$241, Car Payment: \$161, Utilities: \$175, Cell Phone: \$165, Car Insurance \$100, Gas: \$80, Tolls \$80, totaling \$2,952/month. (Exhibit 2(a), Testimony of Appellant).
9. Appellant has been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
10. According to Table 3 Appellant could have afforded \$366.66 per month during the time she was single and uninsured for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for herself for \$257 per month.
11. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The appellant submitted a statement of grounds for appeal (Ex. 2) Other. During 2019 other circumstances, such as: Applying Affordability Tables in Schedule HC to you is inequitable (for example, because of family size) . . . .

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

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

According to Table 3 of Schedule HC for 2019, the Appellant testified her adjusted gross income of \$55,000.00 in 2019 and could have afforded \$366.66 per month during the time she was single and uninsured for health insurance. According to Table 4 Appellant could have purchased insurance for herself for \$257 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Appellant was not offered health insurance through her part time jobs.

Where Individual coverage was affordable through the individual market for the Appellant in 2019, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. 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 Appellants' tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019: during the time she was uninsured Rent/Mortgage: \$1,950, Student Loan \$241, Car Payment: \$161, Utilities: \$175, Cell Phone: \$165, Car Insurance \$100, Gas: \$80, Tolls \$80, totaling \$2,952/month. (Testimony of Appellant, Exhibit 2(a)).

The evidence presented by the Appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant submitted documentation that in 2019 she incurred basic monthly expenses of approximately \$2,952.00 during the time she was uninsured. (Exhibit 2(a)). Those expenses were less than her regular monthly pre-tax income of approximately \$ 4,583.00, thereby making a private health insurance premium of \$257.00/month manageable. If find that it does not appear on its face that the payment of \$257.00/month for health insurance would have caused an undue hardship.

Accordingly, it is concluded that the Appellant did not establish through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). Based on the totality of the evidence, it is concluded that the appellant was not exempt from the individual mandate and his request for a waiver from the penalty is **denied**. The determination that the appellant is not eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

## **PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2019.

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

If the appellant still does not have health insurance, she may want to contact the Connector to find out if she is now eligible for a Connector Plan or ConnectorCare. She is advised to investigate her eligibility for subsidized health insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-4

**Appeal Decision** Appeal Approved

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

**Hearing Date:** April 10, 2020

**Decision Date:** April 20, 2020

### **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 10, 2020.

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

- Exhibit 1: Notice of Hearing dated March 9, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated February 17, 2020
- Exhibit 4: Written Statement of asppela Dated February 17, 2010

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-seven years old and is single. He lives in Essex County, Massachusetts.
2. Appellant work in the moving business. The company he works for does not offer health insurance. Appellant stated that he does not make enough money to afford health insurance. However, Appellant purchased health insurance this year. Appellant has not had health insurance for the last eight or ten years.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$3,376.00, consisting of rent \$1,100.00, heat & light \$125.00, internet & cable \$40.00, cell phone \$80.00, car payment \$610.00 car insurance \$117.00, car gas \$250.00 food \$834.00, entertainment \$100.00, clothing \$60.00 toiletries 60.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$47,894.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Essex County for a 36 year old single person was \$279.00. The tables reflect that Appellant could afford \$303.32. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$47,894.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$303.32 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$279.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant works for a moving firm. His company does not offer health insurance. He has not had health insurance for the last eight or ten years. Appellant, however did purchase health insurance this year but will not be able to afford to keep the health insurance if he has to pay the penalty assessed.

Appellant is deemed to afford \$303.32 for health insurance coverage because of his income. Private insurance in the market place was \$279.00 per month, which is less than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2018.

**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: PA19-9

**Appeal Decision** Appeal Approved

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

**Hearing Date:** April 10, 2020

**Decision Date:** April 20, 2020

### **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 10, 2020.

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

Exhibit 1: Notice of Hearing dated March 9, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated February 16, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant work in the journalism business. Appellant left he company he was woking for in February but he kept his health insurance until April 2019. Appellant was out of work until

October 2019, when he obtained a full time job. He was unable to obtain health insurance until January 2019. He worked freelance jobs whci did not pay very much. Due to his economic situation he lived at home with his parents.

3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$509.00, consisting of car insurance \$114.00, car gas \$50.00, entertainment \$23.00, credit card \$200, student loan \$100.00, transportation \$22.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, "Other. During 2019 other circumstances, such as; applying the Affordability Tables in Schedule HC to you is inequitable." He should also have appealed under " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear his appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$19,105.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Suffolk County for a 29 year old single person was \$257.00. The tables reflect that Appellant could afford 46.17. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, "Other. During 2019 other circumstances, such as; applying the Affordability Tables in Schedule HC to you is inequitable." He should also have appealed under " During 2018, the expense of purchasing

health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear his appeal under both grounds

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$19,105.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$46.17 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant works as a journalist. He left his employment in February 2019 but kept his health insurance through April 2019. Appellant worked side jobs and lived with his family until he obtained a new job in October 2019. Unfortunatley his health insurance did not commence until January 2020. During the period of his unemployment he had little or no money to pay for any expenses and health insurance.

Appellant is deemed to afford \$46.17 for health insurance coverage because of his income. Private insurance in the market place was \$257.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2018.

**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: PA19-20

**Appeal Decision** Appeal Approved

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

**Hearing Date:** April 6, 2020

**Decision Date:** April 16, 2020

### **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 6, 2020.

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

- Exhibit 1: Notice of Hearing dated March 11, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated February 18, 2020
- Exhibit 4: Open record Documents from Employer

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. He lives in Bristol County, Massachusetts.
2. Appellant work in the security business. The company he works for offer health insurance but he stated it was too expensive at around \$500.00 per-month. The information his employer sent in did not indicate the cost per-month of the health insurance. He did not apply to the Health Connector because of the time. I find his testimony credible.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$1,84.00, consisting of rent \$600.00, heat & light \$240.00, internet & cable \$100.00, cell phone \$40.00, car insurance \$86.00, car gas \$130.00 food \$450.00, entertainment \$100.00, toiletries \$0.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$24,993.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Bristol County for a 26 year old single person was \$257.00. The tables reflect that Appellant could afford \$87.47. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$24,993.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$87.47 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant works for a security firm. He was offered health insurance from his company but the cost of the insurance was around \$500.00, which he could not afford. Private insurance would have cost \$257.99, which he could not afford. He did not apply to the Health Connector due to time.

Appellant is deemed to afford \$87.47 for health insurance coverage because of his income. Private insurance in the market place was \$257.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2018.

**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: PA19-22

**Appeal Decision** Appeal Approved

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

**Hearing Date:** April 6, 2020

**Decision Date:** April 14, 2020

### **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 6, 2020.

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

Exhibit 1: Notice of Hearing dated March 11, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated February 21, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-three years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant works in the food retail business. The company he works for shut four stores last year and he was returned to part time from full time work. He lost his health insurance. He applied for MassHealth and was turned down. He then applied for the Health Connector in 2020.
3. Appellant does have health insurance in 2020 through the Health Connector.
4. The Appellant's monthly expenses totaled \$1,337.00, consisting of rent \$675.00, cell phone \$62.00, food \$600.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$24,861.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 62 year old single person was \$418.00. The tables reflect that Appellant could afford \$87.01. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$24,861.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$87.01 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$418.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant had his hours reduced in 2019 and was no longer eligible for health insurance. Appellant applied for MassHealth in 2019 but was not eligible for MassHealth. Appellant then applied for the Health Connector and has health insurance for 2020. Based on the evidence and testimony in this

administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e).

Appellant is deemed to afford \$87.01 for health insurance coverage because of his income. Private insurance in the market place was \$418.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2018.

**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: PA19-23

**Appeal Decision** Appeal Approved

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

**Hearing Date:** April 6, 2020

**Decision Date:** April 14, 2020

### **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 6, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated March 11, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated February 22, 2020
- Exhibit 4: Written Statement of Appeal Dated February 22, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-two years old and is single with one dependent. He lives in Middlesex County, Massachusetts.
2. Appellant works as a machinist. He has three children. Only one child is his dependent. His company does not offer health insurance. Appellant filed for bankruptcy in 2019 but kept his house.
3. Appellant does not have health insurance in 2020 through the Health Connector.
4. The Appellant's monthly expenses totaled \$4,075.00, consisting of mortgage \$1,600.00, electric & heat \$190.00, internet & cable \$92.00, cell phone \$200.00, food \$320.00, car insurance \$75.00, car gas \$150.00, clothing \$100.00, toiletries \$40.00, water & sewer \$97.00, home alarm \$11.00, child support \$1,200.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." And "Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$79,966.00 was more than \$49,380.00. The monthly premium for health insurance available on the private market in Middlesex County for a 41 year old single person with one dependent was \$768.00. The tables reflect that Appellant could afford \$533.10. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And “Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$24,990.00 for a single person with one dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$79,966.00 in 2019, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay 533.10 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$768.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

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

Appellant had filed bankruptcy in 2019 due to personal debt. He has a child support obligation of \$1,200.00 a month. Appellant testified that he struggled to meet his expenses with his after-tax income. Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e).

The Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

Appellant is deemed to afford \$533.10 for health insurance coverage because of his income. Private insurance in the market place was \$768.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2018.

**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: PA19-37

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** April 23, 2020

**Decision Date:** April 28, 2020

### **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 23, 2020.

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

Exhibit 1: Notice of Hearing dated March 12, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. She lives in Worcester County, Massachusetts. Appellant works in a technology business.
2. Appellant had health insurance through her company in 2018. The company decided to change health insurance companies in 2018-2019 and told their employees to wait until they changed companies to apply for health insurance. This process took several months until June of 2019 when Appellant was able to obtain health insurance through her company.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,574.00, consisting of rent \$950.00, heat and light \$300.00, cell phone \$104.00, uber \$600.00, food \$400.00, clothing \$50.00, toiletries \$80.00, entertainment \$15.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-209 under any grounds but should have appealed under the grounds for Appeal, "Other. During 2019, other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$42,030.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 25 year old single person was \$257.00. The tables reflect that Appellant could afford \$260.93. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did not submit a Statement of Grounds for Appeal-2019 under any grounds but should have appealed under the grounds for Appeal, "Other. During 2019, other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable."

Appellant found out from her employer that it was changing health insurance companies. The company told the Appellant to wait until it obtained new health insurance. Appellant waited and the company provided new insurance in June of 2019.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2019 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$42,030 in 2019, and Appellant's filing status was single. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$260.93 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$260.93 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is less than she could afford. Appellant was informed by her company to wait for new health insurance. Appellant had health insurance through her company in 2018 and waited until June 2019 for her new health insurance. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2019.

**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: PA19-38

**Appeal Decision** Appeal Approved

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

**Hearing Date:** April 23, 2020

**Decision Date:** April 30, 2020

### **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 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated March 12, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated February 24, 2020

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-eight years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant work in the custodial business. The company he works for offers health insurance but he stated it was too expensive at around \$272.00 per-month.
3. Appellant now lives in a room at the local YMCA. He was able to move there in 2019. Prior to that time, Appellant lived in his car or in a shelter. Appellant was able to afford health insurance for the last two months of 2019 with the Health Connector
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,670.00, consisting of rent \$600.00, car payment \$260.00, car insurance \$180.00, car gas \$180.00 food \$60.00, entertainment \$30.00, toiletries \$30.00 clothing \$50.00, laundry \$20.00, child support \$260.00.
6. The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have submitted under the grounds , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear his appeal under this ground.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$34,900.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Plymouthl County for a 57 year old single person was \$418.00. The tables reflect that Appellant could afford \$145.42. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have submitted under the grounds, “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear his appeal under this ground.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$34,900.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$145.42 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$418.00 monthly for coverage with zero dependents *Id.* at Table 4. His employer offered health insurance at a cost of \$272.00 per month.

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

Appellant works for a custodial firm. He was offered health insurance from his company but the cost of the insurance was around \$272.00, which he could not afford. Private insurance would have cost \$418.00, which he could not afford. He did obtain health insurance for the last two months of 2019.

Appellant is deemed to afford \$145.42 for health insurance coverage because of his income. Private insurance in the market place was \$418.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2018.

**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: PA19-41

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** April 23, 2020

**Decision Date:** April 28, 2020

### **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 23, 2020.

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

- Exhibit 1: Notice of Hearing dated March 12, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 24, 2020
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-six years old and is single. She lives in Worcester County, Massachusetts. Appellant works in a clothing business.
2. Appellant states that she does not have enough money to afford health insurance. .Appellant has not had health insurance for a few years. Appellant's mother and brother help her out with living expenses.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$3,118.00, consisting of mortgage \$2,084.00, car insurance \$100.00, heat and light \$200.00, hospitals \$100.00, student loan \$52.00, life insurance \$42.00, water bill \$20.00, food \$170.00, prescriptions\$60.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$62,343.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 55 year old single person was \$418.00. The tables reflect that Appellant could afford \$415.62. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food , shelter, clothing or other necessities”

Appellant states that she does not have enough money to afford health insurance. .Appellant has not had health insurance for a few years. Appellant’s mother and brother help her out with living expenses.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$62,343.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$415.62 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$418.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$415.62 for health insurance coverage because of her income. Private insurance in the market place was \$418.00 per month, which is more than she could afford. Appellant states she cannot afford health insurance and is helped by her mother and brother with expenses. On these facts, I find that Appellant has shown that she was partially precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is partially exempt from a tax penalty for her non-compliance with the individual mandate.

The Appellant should note that the partial waiver of her penalty is based upon the facts that I determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

Accordingly, Appellant's appeal is **PARTIALLY ALLOWED**, and the 2019 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2019.

**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: PA19-42

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** April 23, 2020

**Decision Date:** April 29, 2020

### **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 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated March 12, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-two years old and is single. She lives in Hamden County, Massachusetts. Appellant works in the retail food business.
2. Appellant had health insurance in 2018. She was not able to afford health insurance in 2019 due to her income. She is now unemployed.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,134.00, consisting of rent \$1,100.00, heat and light \$200.00, cell phone \$50.00, internet & cable \$200.00 car insurance \$160.00, car gas \$80.00, food \$200.00, entertainment \$100.00, clothing \$20.00, toiletries \$20.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$24,490.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Hamden County for a 21- year old single person was \$257.00. The tables reflect that Appellant could afford \$85.72. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

Appellant stated that she did not have enough money to pay for health insurance in 2019.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of 24,490.00 in 2019, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$85.72 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$85.72 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is more than she could afford. Appellant

stated that she did not have enough money to pay for health insurance in 2019 and now is not working. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_7\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 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 2019.

**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

Appellant is urged to call the customer service line of the Health Connector to report her change in income.

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-288

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 24, 2020

**Decision Date:** April 7, 2020

## **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 24, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 19, 2020
- Exhibit 4: Prior Hearing Date documents

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-four years old and is single. She lives in Bristol County, Massachusetts.
2. Appellant works in the restaurant business.
3. Appellant lived in Florida in 2018 and left her job. She could not find another job in Florida and decided to move back to Massachusetts. She lived with her father until she could find a job. Once Appellant obtained a job it took several months for her background check to be completed. Appellant did not start work until June 2018. Appellant had lived in Florida for over a decade and was unaware of the Health Connector and the requirements of the Commonwealth of Massachusetts. She needed to save money to obtain an apartment for first and last months rent. Appellant is still working in the restaurant business and is uncertain of the hours she will be working.
4. She did have health insurance in 2019 mid-way through the year. She does not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,890.00, consisting of rent \$850.00, heat and light 150.00, internet and cable \$100.00, cell phone \$40.00, transportation \$300.00, food \$200.00, clothing \$30.00, toiletries 30.00, entertainment \$100.00, cat food \$30.
6. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, "During 2018, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice" and :During 2018 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable" The Appellant should have also appealed under the grounds of "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under all grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$20,018.00 was less than \$36,180.00. The monthly premium for health insurance available on the private market in Bristol County for a 33 year old single person was \$282.00.

The tables reflect that Appellant could afford \$248.37. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice” and :During 2018 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable” The Appellant should have also appealed under the grounds of “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under all grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$20,018.00 in 2018, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$48.37 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 282.00 monthly for coverage. *Id.* at Table 4.

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

Appellant moved from Florida to Massachusetts because she left her job in Florida and could not find another job. When she moved to Massachusetts she could not find a job for a period of time and lived with her father. She works in the restaurant industry and is uncertain of her job at this time. Appellant had lived in Florida for over a decade and was unaware of the Health Connector and the requirements of the Commonwealth of Massachusetts.

Appellant is deemed to afford \$48.37 for health insurance coverage because of her income. Private insurance in the market place was \$282.00 per month, which is less than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2018 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA18-333

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 24, 2020

**Decision Date:** April 7, 2020

### **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 24, 2020.

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

Exhibit 1: Notice of Hearing dated February 7, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Prior Hearing Documents

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single. He lives in Essex County, Massachusetts.
2. Appellant had a job with an automobile company in 2018 and had health insurance. Appellant had to leave that job. He obtained a job in a hospital but it was a per-diem job and offered no health insurance. Appellant did not know about the Health Connector or he would have applied for health insurance through the Connector. Appellant obtained MassHealth for 2019 & 2020.
3. Appellant did have health insurance in 2019 & has health insurance in 2020.
4. The Appellant's monthly expenses totaled \$1,764.00, consisting of rent \$750.00.00, heat & light \$40.00 internet and cable \$56.00, car insurance \$158.00, car gas \$100.00, food \$250.00, clothing \$30.00, toiletries \$40.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, because Appellant's income of \$23,764.00 was less than \$36,180.00. The monthly premium for health insurance available on the private market in Essex County for a 37 year old single person was \$290.00. The tables reflect that Appellant could afford \$57.42. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “ During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$18,090.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$23,764.00 in 2018, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$57.42 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$290.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant left his job in 2018 that had health insurance and took a job in a hospital as a per-diem worker and that job did not offer health insurance. Appellant testified that he had no knowledge of the Health Connect or he would have applied for health insurance. Appellant had MassHealth in 2019 and in 2020.

Appellant is deemed to afford \$57.42 for health insurance coverage because of his income. Private insurance in the market place was \$290.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2018 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA18-931

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 25, 2020

**Decision Date:** April 7, 2020

### **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 March 25, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-7-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-31-19) (with letter and documents) (12 pages); and
- Exhibit 4: Notice of prior hearing date (7-1-19) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 38 during 2018, from Barnstable County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$33,462.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing and other necessities used most of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing and other necessities, totaled \$2,591.00 per month averaged out, or \$31,092.00 for the year (Appellant's Testimony, Exhibit 3).

5. Appellant now has health insurance through MassHealth, as Appellant is pregnant with twins at the time of the hearing (Appellant's Testimony).
6. Health insurance was not available to Appellant through the employer (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$290 for individual coverage. According to Table 3, Appellant was deemed to afford \$131.
9. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellant testified that the premiums even from the Health Connector were more than Appellant could afford. Appellant may have been able to reduce the premium but Appellant was not aware of that option.
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities, and based on having received shut off notices. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to 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 2018 (Exhibit 3).
13. Appellant did not fall more than thirty days behind in rent payments in 2018, however Appellant did receive a shut-off notice for basic utilities in June and July of 2018 (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2018. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$33,462.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$131 per month; according to Table 4, Appellant, who was 38 years old in 2018, lived in Barnstable County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$290 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant qualified for ConnectorCare.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities, and that Appellant received shut off notices in 2018. Expenses for food, shelter, clothing and other necessities used most of the income. In addition, Appellant received shut off notices for basic utilities in June and July of 2018. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

#### **PENALTY ASSESSED**

Number of Months Appealed: 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 2018.

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

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

Hearing Officer

Cc:      Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18897

**Appeal Decision:** The penalty is overturned in full  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** January 24, 2020  
**Decision Date:** March 26, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 24, 2020. 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: Appeal Case Information from Schedule HC 2018
- Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated by Appellant on May 30, 2019 with letter in support attached
- Exhibit 3: Notice of Hearing sent to Appellant dated October 25, 2019 for December 3, 2019 hearing
- Exhibit 4: Notice of Hearing sent to Appellant dated December 16, 2019 for January 24, 2020 hearing
- Exhibit 5: Connector Appeals Unit email to Appellant and Appellant's response dated January 24, 2020
- Exhibit 6: Appellant's mother's obituary
- Exhibit 7: Notice sent to Appellant from hospital regarding payment plan termination dated June 10, 2017
- Exhibit 8: Appellant's past due medical bills in collection dated March 20, 2018-April 24, 2018
- Exhibit 9: Appellant's Federal tax form 3903 for 2017 showing moving expenses
- Exhibit 10: Appellant's Federal tax forms 1099-G for 2016 and 2017 showing unemployment compensation benefits
- Exhibit 11: Bills for attorney services for probate of Appellant's mother's estate, October 1, 2017 and December 1, 2017
- Exhibit 12: Legal documents relating to Appellant's mother's estate

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single individual with no dependents claimed, was 41 years old in 2018 (Exhibit 1, Testimony of Appellant).

2. Appellant lived in Essex County in 2018 (Exhibit 1, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2018 of \$89,164 (Exhibit 1 and Testimony of Appellant).
4. In 2016, Appellant lost her job. After she lost her job, Appellant, who lived in another state, kept her health insurance, paying for the coverage herself during the rest of 2016 and all of 2017. Appellant was unemployed until mid-2017 when she obtained employment in the Commonwealth. As of the date of this hearing, Appellant had the same job. She was not offered health insurance through her job. In 2018 Appellant felt she could no longer afford to pay for her own coverage (Testimony of Appellant, Exhibit 2 attachment).
5. After she lost her job, the appellant received unemployment compensation for the rest of the year and for the first six months of 2017. She received \$1,300 a month received (Testimony of Appellant, Exhibits 2, and 10).
6. After arriving in the Commonwealth, Appellant did not have a permanent living arrangement. She traveled back to the state she had lived in before moving to the Commonwealth. During the first three months of 2018, she continued to travel back and forth. While in Massachusetts, she stayed with friends or in sublets, residing in at least three different places. She moved to permanent living quarters in July, 2018 (Testimony of Appellant).
7. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from July through December, 2018. Appellant still had health insurance as of the date of this hearing (Testimony of Appellant, Exhibit 1).
8. The appellant has been assessed a tax penalty for three months, January through March, 2018. The appellant has appealed the assessment (Exhibits 1, 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
10. According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed with an adjusted gross income of \$89,164 could afford to pay \$598 per month for health insurance. According to Table 4, Appellant, 41 years old and living in Essex County, could have purchased insurance for \$310 per month for a plan for an individual. Insurance on the individual market was affordable for her (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).
11. According to Table 2 of Schedule HC for 2018, Appellant earning more than \$36,180 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, and Exhibit 1).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2018 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2018 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in January through March, 2018: rent including heat and electricity--\$1,200 (paid to the friends she stayed with); telephone-\$140; food, household

supplies, and personal care items-\$1,000; clothing-\$150; car payment-\$350; car insurance-\$120; gas-\$500 (driving back and forth to the state she lived in originally). Appellant owed at least \$10,000 in medical bills from previous years. She paid on average \$250 a month to the collection agencies for these bills. Appellant also paid \$500 for dental work and some amount for attorney's fees. Appellant was the executrix for her mother's estate. Relatives were contesting the probate of the estate. Appellant also had outstanding student loans. She was unable to make her payments during this period (Testimony of Appellant, Exhibits 6,7,8, 10, 11, 12).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

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

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. Examples of a qualifying event include the loss of health insurance from a job, moving to the Commonwealth, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

The appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from July through December, 2018. She has been assessed a three-month tax penalty only (January through March) since she is entitled to a three-month grace period prior to her obtaining insurance at the beginning of July. See Massachusetts General Laws, Chapter 111M, Section 2. We need to determine if the penalty should be waived or not. 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 appellants through employment, through the individual market, or through a government-sponsored program during the months they were 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 2018, the appellant with no dependents claimed with an adjusted gross income of \$89,164 could afford to pay \$598 per month for health insurance. According to Table 4, Appellant, 41 years old and living in Essex County, could have purchased insurance for \$310 per month for a plan for an individual. Insurance on the individual market was affordable for her. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant was ineligible for ConnectorCare coverage. The income limit for a household of one was \$36,180. The appellant earned more than the limit. See Exhibit 1, the testimony of the appellant, and Schedule HC. There is no evidence in the record that Appellant was eligible for any other government-sponsored program.

Appellant was employed all of 2018 at the same job, but she was not offered health insurance through employment. See the testimony of the appellant which I find to be credible.

The appellant could have obtained affordable health insurance through the individual market during the open enrollment period. See cites above. Because affordable health insurance was available, we next need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused her 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).

Though Appellant's penalty is for months in 2018, we need to look at her financial situation starting in 2017. Appellant was unemployed half the year and received little in the way of unemployment compensation (about \$1,300 a month). She had considerable debt for medical expenses from 2016 and 2017 even though she had health insurance both years. At one point, she owed \$10,000 to providers. In addition, Appellant was in charge of her mother's estate. Relatives were contesting the probate of the estate and Appellant had to lay out money to pay attorney's fees. Finally, in order to find employment, Appellant moved to Massachusetts and had expenses for travel back and forth from the state she had lived in to the Commonwealth. All of these expenses, plus the cost of basic necessities, made the appellant feel she could not afford health insurance. In the past, Appellant had paid for her own insurance, but given the expenses she faced in early 2018, after being unemployed for half of 2017, the cost of purchasing health insurance became difficult for the appellant. In addition, Appellant's housing situation was insecure during the first three months of the year. Appellant lived in at least three different places during this period. See the testimony of the appellant which I find to be credible and Exhibits 6, 7,8, 10, 11, and 12.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(3), which allows the consideration of financial issues raised by the appellant on appeal, the appellant had a financial hardship in 2018 such that the cost of health insurance was unaffordable for her. I also note that mid-2018, Appellant obtained coverage through the Connector; as of the date of this hearing, she still had coverage.

Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2018 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:   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 2018.

**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: PA18-997

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 24, 2020

**Decision Date:** April 7, 2020

## **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 March 24, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated July 5, 2019
- Exhibit 4: Written Statement of Appeal Dated July 5, 2020

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-five years old and his wife is thirty-four years old. They live in Suffolk County, Massachusetts.
2. Appellant stated that in 2018 the Appellant worked for a retail company that offered health insurance but for Appellant to put his wife on the health insurance would be a cost of \$1,000.00. Appellant's suffered a loss in 2018 when their apartment was broken into and items were stolen. Appellant's wife is not a U.S. citizen and is having difficulty obtaining work.
3. Appellant has health health insurance in 2019 & 2020 but his wife does not have health insurance.
4. The Appellants monthly expenses totaled \$5,030.00, consisting of mortgage \$1,975.00, electric \$240.00, internet & cable \$140.00, cell phone \$130.00, car payment \$400.00, car insurance \$110.00, car gas \$70.00 food \$600.00, credit card \$1,000.00, entertainment \$80.00, clothing \$50.00, dental for wife \$230.00.
5. The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$49,864.00 was more than \$48,720.00. The monthly premium for health insurance available on the private market in Suffolk County for a 34 year old married person was \$579.00. The tables reflect that Appellants could afford \$309.57. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$24,030.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant stated that in 2018 the Appellant worked for a retail company. Appellant could have added his wife but the cost would have been \$1,000.00 a month. Appellant s suffered a loss in 2018 from an beak in to their apartment. His wife is not a U. S. citizen and is having difficulty obtaining work.

Appellant reported a federal AGI of \$49,864.00 in 2018, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$309.576 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of \$579.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$309.57 for health insurance coverage because of their income. Private insurance in the market place was 579.00 per month, which is more than they could afford. Appellant’s wife is not a U.S. citizen and is having difficulty obtaining a job. On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2018 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA181106

**Appeal Decision:** The penalty is overturned in full  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** January 28, 2020  
**Decision Date:** March 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 28, 2020. The procedures to be followed during the hearing were reviewed with Appellant. The appellant 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 testimony of the appellant and the representative and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2018
- Exhibit 2: Statement of Grounds for Appeal 2018 signed and dated by Appellant on October 28, 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated December 6, 2019 for January 28, 2020 hearing
- Exhibit 4: Connector Appeals Unit Final Decision, Tax Year 2017, dated July 8, 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single individual with no dependents claimed, was 27 years old in 2018 (Exhibit 1, Testimony of Appellant).
2. Appellant lived in Middlesex County in 2018. Appellant moved to Hawaii in July, 2019 (Exhibit 1, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2018 of \$52,576. The year before, Appellant had a Federal Adjusted income of \$60,343 (Exhibits 1, 4, and Testimony of Appellant).
4. Appellant worked all year in a restaurant. Appellant had worked at the same place since 2016 (Testimony of Appellant).
5. Appellant was offered health insurance through her job. The open enrollment period was in July. Appellant was out of work during the open enrollment period, so missed the opportunity to sign up for coverage. Appellant

did not remember the cost of the coverage through her job, but in 2017, the coverage cost about \$130 a month (Testimony of Appellant, Exhibit 4).

6. The appellant has been assessed a tax penalty for all of 2018. The appellant has appealed the assessment (Exhibits 1, 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed and with an adjusted gross income of \$52,576 could afford to pay \$352 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex County, could have purchased insurance for \$249 per month for a plan for an individual. Insurance on the individual market was affordable for her (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).

9. According to Table 2 of Schedule HC for 2018, Appellant earning more than \$36,180 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, and Exhibit 1).

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 fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2018 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2018 (Testimony of Appellant).

13. Appellant had the following expenses for basic necessities in 2018: rent-\$1,000; heat and electricity-on average \$200 a month; food-\$1,000; clothing-\$15; car payment-\$400; car insurance-\$205; gas-\$260; old credit debt-\$150. These expenses were approximately the same as her expenses for necessities in 2017. In addition, Appellant gave her parents financial support of at least \$2,000 (Testimony of Appellant, Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part.

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

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have had a qualifying life event within the past 60 days. Examples of a qualifying event include the loss of health insurance from a job, moving to the Commonwealth, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period. There is an exceptional circumstances exception. Examples of exceptional circumstances are given in the Centers for Medicare and Medicaid Services and for Consumer Information and Insurance Oversight Affordable Exchanges Guidance dated March 26, 2014. Examples listed are a natural disaster, or medical emergency.

Appellant has been assessed a twelve-month tax penalty. Appellant has appealed this assessment. See Exhibits 1 and 2, and Massachusetts General Laws, Chapter 111M, Section 2.

To determine if the of 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 she 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 2018, the appellant with no dependents claimed and with an adjusted gross income of \$52,576 could afford to pay \$352 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex County, could have purchased insurance for \$249 per month for a plan for an individual. Insurance on the individual market was affordable for her. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant could have purchased health insurance through the Connector during the open enrollment period. See 45 CFR 155.410 and 420. This coverage was affordable and available. See above. 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 her to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following expenses for basic necessities in 2018: rent-\$1,000; heat and electricity-on average \$200 a month; food-\$1,000; clothing-\$15; internet-\$43; car payment-\$400; car insurance-\$205; gas-\$260; old credit debt-\$150. In addition, Appellant gave her parents who lived in another country, financial support of at least \$2,000. See the testimony of Appellant, which I find to be credible. I note that Appellant earned about \$8,000 less in 2018 than she earned in 2017 while her expenses remained about the same. See Exhibits 1 and 4.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her. Considering expenses, the need to provide financial support to her parents, and her decrease in earnings from 2017 to 2018 I determine that the cost of purchasing coverage was not affordable for the appellant. See 956 CMR 6.08(3) which allows the consideration of financial issues which the appellant raised upon appeal, such as the support of her parents, and the decrease of earnings.

Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2018 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 2018.

**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: PA18-1107

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 24, 2020

**Decision Date:** April 7, 2020

## **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 March 24, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated October 30, 2019
- Exhibit 4: Written Statement of Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-one years old and his wife is fifty-six years old. They live in Norfolk County, Massachusetts.
2. Appellant stated that in 2018 the Appellant drew down \$240,000.00 from his retirement savings. for a downpayment on a house. The remaining \$102,026.00 was from his wife's earnings and from his contact jobs. Appellant indicated that his wife was unemployed for one-half of the 2018 year. The Appellant stated that once the downpayment of \$240,000.00 was put down for the purchase of his house that he did not have enough money for health insurance
3. Appellant did not health health insurance in 2019 & does not have health insurance in 2020 but his wife does have health insurance.
4. The Appellants monthly expenses totaled \$3,772.00, consisting of rent \$1,680.00, internet & cable \$49.00, cell phone \$45.00, car insurance \$200.00, car gas \$200.00 food \$400.00, credit card \$600.00, clothing \$30.00, student loan \$398.00. Appellant bought a house and the paments were \$1,800.00, so I have added \$120 to the total above.
5. The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$342,026.00 was more than \$48,720.00. The monthly premium for health insurance available on the private market in norfolk County for a 60 year old married person was \$846.00. The tables reflect that Appellants could afford \$2,294.42. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$24,030.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant stated that in 2018 the Appellant drew down \$240,000.00 from his retirement savings to purchase a house. His wife was unemployed for one-half of the year. Appellant stated he could not afford health insurance.

Appellant reported a federal AGI of \$342,026.00 in 2018, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$2,294.42 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of \$846.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$2,294.42 for health insurance coverage because of their income. Private insurance in the market place was \$846.00 per month, which is less than they could afford. On these facts, I find that Appellants have not shown that they were precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are not exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2018 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA18-1113

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 26, 2020

**Decision Date:** April 8, 2020

### **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 26, 2020.

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

Exhibit 1: Notice of Hearing dated February 7, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated November 11, 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-eight years old and is single. She lives in Essex County, Massachusetts.

2. Appellant discovered in late 2017 that she needed extensive dental work done. Appellant had to save all during 2018 for the dental work that was going to cost \$15,000.00. Appellant found a dental office in Siberia that would do the work at a reduced price because of its locality. Appellant worked in an educational institution for small children and had limited income.
3. She did have health insurance in 2019. She does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,186.00, consisting of rent \$1,066.00, heat and light \$95.00, cell phone \$80.00, car payment \$230.00, car insurance \$95.00, car gas \$170.00, food \$450.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, "Other. During 2018, other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable" The Appellant should have also appealed under the grounds of "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under all grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$38,975.00 was more than \$36,180.00. The monthly premium for health insurance available on the private market in Essex County for a 57 year old single person was \$423.00. The tables reflect that Appellant could afford \$241.96. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, "During 2018 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable." The Appellant should have also appealed under the grounds of "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under all grounds

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2018 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$29,858.00 in 2018, and Appellant's filing status was single . EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$104.50 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$249.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$241.96 for health insurance coverage because of her income. Private insurance in the market place was \$423.00 per month, which is more than she could afford. Appellant

had a large dental problem that had to be addressed because of her health and job. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2018 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA18-1116

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 26, 2020

**Decision Date:** April 9, 2020

## **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 26, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated November 15, 2019
- Exhibit 4: Written Statement of Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. She lived in Suffolk County, Massachusetts.
2. Appellant worked for a hospital part time but did not qualify for their health care. She applied for the Health Connector but their premiums were too high. Due to the expense of living in Massachusetts she moved back to her home in Chicago.
3. She did not have health insurance in 2019. She does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,875.00, consisting of rent \$800.00, heat and light \$350.00, internet and cable \$180.00, cell phone \$600.00, transportation \$90.00, food \$300.00, entertainment \$75.00, toiletries \$75.00, student loan \$500.00 eyeglasses \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$29,858.00 was less than \$36,180.00. The monthly premium for health insurance available on the private market in Suffolk County for a 24 year old single person was \$249.00. The tables reflect that Appellant could afford \$104.50. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

**ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$18,090.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2018 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2018. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2018 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$29,858.00 in 2018, and Appellant’s filing status was single . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$104.50 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$423.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$104.50 for health insurance coverage because of her income. Private insurance in the market place was \$249.00 per month, which is more than she could afford. Appellant worked part time for a hospital and was not allowed health insurance She tried to obtain health

insurance from the Health Connector but the cost was too high. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2018 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

**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: PA18-1119

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 25, 2020

**Decision Date:** April 7, 2020

### **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 March 25, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-7-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (12-2-19) (with letter and documents) (9 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 58 during 2018, from Hampden County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$23,978.00 (Exhibit 2).
4. Appellant's expenses for food, shelter, clothing and other necessities used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing and other necessities, totaled \$2,013.00 per month averaged out, or \$24,156.00 for the year (Appellant's Testimony, Exhibit 3).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$423 for individual coverage. According to Table 3, Appellant was deemed to afford \$58.
7. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).
8. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellant testified that the premiums even from the Health Connector were more than Appellant could afford. Appellant may have been able to reduce the premium but Appellant was not aware of that option.
9. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to 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 2018 (Exhibit 3).
11. Appellant did not fall more than thirty days behind in rent payments in 2018, nor did Appellant receive a shut-off notice for basic utilities in 2018 (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2018. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$23,978.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$58 per month; according to Table 4, Appellant, who was 58 years old in 2018, lived in Hampden County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$423 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant qualified for ConnectorCare.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Expenses for food, shelter, clothing and other necessities used all of the income. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

#### **PENALTY ASSESSED**

Number of Months Appealed: 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 2018.

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

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

Hearing Officer

Cc:      Connector Appeals Unit

**NOTE:** The pronoun "they" is used in order to be gender neutral, regardless of the singular or plural.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-1121

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2018 Tax Year Penalty

**Hearing Date:** March 25, 2020

**Decision Date:** April 9, 2020

### **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 appeared at the hearing, which was held by telephone, on March 25, 2020. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-7-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (11-27-19) (with letter and documents) (22 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 33 and 36 during 2018, filed married filing jointly on the tax return with a family size of 2) (Exhibit 2).
2. One of the Appellants did have health insurance for all of 2018, through the University where the Appellant was a graduate student. The other Appellant did not have health insurance from January to August of 2018, but did have health insurance from September through December of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2018 was \$43,136.00 (Exhibit 2). The Appellant who did not have health insurance for part of the year did not earn any income (Appellant's Testimony, Exhibit 3).

4. Appellants indicated that they could not afford the spouse health insurance through the University and that the University told them they could not go through the Health Connector for health insurance. (Appellant's testimony, Exhibit 3).
5. Appellants indicated that for 2018, through family assistance, they were able to enroll the Appellant who did not have health insurance into the health insurance during the open enrollment in September 2018. (Appellant's Testimony, Exhibit 3).
6. Appellants' expenses for food, shelter, clothing and other necessities used almost all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing and other necessities, totaled \$3,202.00 per month averaged out, or \$38,424.00 for the year (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 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 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$579 for family coverage. According to Table 3, Appellants were deemed to afford \$268.
9. Private insurance was not affordable for the Appellants in 2018 (Schedule HC for 2018).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellants therefore qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellants testified that they were told they could not go through the Health Connector.
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to 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 2018 (Exhibit 3).
13. Appellants did not fall more than thirty days behind in rent payments in 2018, nor did Appellants receive a shut-off notice for basic utilities in 2018 (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived in whole, in part, or not at all.

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

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

One of the Appellants did have health insurance for all of 2018, through the University where they were a graduate student. The other Appellant did not have health insurance for January through August of 2018, but did have health insurance through the University for September through December of 2018. They have been assessed a tax penalty for five months for one of the Appellants and no penalty for the other Appellant. Appellants appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellants during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellants, with an adjusted gross income of \$43,136.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$268 per month; according to Table 4, Appellants, who were 35 and 38 years old in 2018, and filed the 2018 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$579 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellants may have qualified for ConnectorCare, but the University where one of the Appellants was an employee and graduate student, had indicated that they did not qualify for ConnectorCare.

With regard to the hardship waiver of the penalty, Appellants claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Expenses for food, shelter, clothing and other necessities used almost all of the income. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2018 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

#### **PENALTY ASSESSED**

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

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 2018.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**NOTE:** The pronoun “they” is used in order to be gender neutral, regardless of the singular or plural.