

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-338

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 10, 2020

**Decision Date:** January 15, 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 January 10, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)
- Exhibit 3: Letter from Appellant to the Health Connector dated 8/19/19, with attachments (3 pages)
- Exhibit 4: Appeal Case Information sheet (as of 8/2/19) (1 page)
- Exhibit 5: Attendance sheet (8/1/19) with hearing exhibits (10 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 31 at the end of 2018.
2. In 2018, Appellant resided in Bristol County in the Commonwealth of Massachusetts. However, he used a mailing address in Rhode Island, where family members resided. He filed his state income taxes as a resident in Massachusetts.
3. Appellant is a U.S. citizen.
4. Appellant filed his 2018 Massachusetts taxes with a status of single with no dependents.

5. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2018 of \$26,076. This income consisted of earnings from work at a job he held in Massachusetts.
6. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that he did not have health insurance at any point in 2018.
7. Appellant moved to Massachusetts in late 2017.
8. At that time, he applied for health insurance coverage through the Health Connector. He stated that, when he applied, he was determined to be not eligible to receive Connector Care, which is subsidized coverage funded with federal and state money. Connector Care has low premiums that are based on income, no deductibles, and very low or no copayments.
9. Because he could not get Connector Care, he signed up for unsubsidized health insurance at a cost of about \$280 a month. He was unable to keep up with those payments, and soon discontinued coverage. Exhibit 3.
10. Appellant reported monthly expenses in 2018 that amounted to more than his net income. These included rent, car loan payments, car insurance, utilities and other necessities. He also incurred medical expenses in 2018, which he was required to pay out of pocket because he did not have health insurance. Exhibit 3.

## **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. To determine whether Appellant should face a penalty for not having insurance, I must first determine whether Appellant could have afforded insurance in 2018.

Appellant stated that his employer did not offer health insurance to him and so he did not have employment sponsored insurance available to him in 2018.

However, Appellant would have been eligible for government-subsidized insurance in 2018. His adjusted gross income of \$26,076 was below \$36,180, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,180 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance, provided they meet the other eligibility requirements of citizenship or legal permanent immigration status, residence in Massachusetts, and lack of access to other forms of subsidized coverage. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude based on Appellant’s testimony that he is a citizen, a Massachusetts resident, and not eligible for employer insurance, that he meets these criteria.

However, Appellant was not enrolled in Connector Care during 2018 because, according to his testimony, he was found not to be eligible when he applied in 2017. It is not possible for me on this record to determine the reason for this result. It is possible that there was an error either in the filing of the application or in the determination of eligibility. At the hearing, Appellant was given the numbers

for the Health Connector customer service center and was also given information on how to reach agencies that might otherwise assist in the application. He was encouraged to re-activate his application and get a new determination of eligibility. If Appellant were found eligible for Connector Care, that would be comprehensive health care coverage at a low or at no premium, depending on his reported income, without deductibles and with minimal copayments.

Without government subsidized insurance, Appellant would not have been able to afford health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2018, an individual like Appellant in a household of one person and an income of \$26,076 was deemed able to afford 4.2% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board, and is printed in the instructions to Schedule HC, of which I take administrative notice. This means that Appellant was deemed able to afford 4.2% of \$26,076, which amounts to only \$1,095 annually or \$91 a month. In 2018, an individual like Appellant who lived in Bristol County and was 31 years old could obtain an unsubsidized health insurance plan at a monthly premium of \$282. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC, of which I take administrative notice. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2018.

Because Appellant would have been able to obtain affordable coverage through Connector Care but didn't, I must determine whether there are grounds to waive the penalty for failure to enroll in health insurance coverage. Here, I determine that there are such grounds. Appellant did seek to obtain health insurance in 2017. Because of an apparent error, he was unable to obtain Connector Care coverage. He then tried to pay for unsubsidized insurance, which was clearly unaffordable at his income level. Further, his expenses, which are reasonable, exceeded his income, causing him to incur debt. Thus, I conclude that purchasing health insurance would have caused him serious deprivation, which is a ground for waiving the penalty. See 956 CMR 6.08(1)(e). Based on all these factors, I exercise my discretion to waive the penalty for 2018.

**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

## Tax Penalty Appeal Decision—Docket No. PA18-619

**Appeal Decision:** Appeal Approved -- 2018 tax penalty overturned.

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

**Hearing Date:** January 9, 2020

**Decision Date:** January 13, 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 (Husband) appeared for the hearing, which I conducted by telephone. The Co-Appellant (Wife) was not present. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Husband's testimony under oath for both of the Appellants and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellants' Statement of Grounds for Appeal – 2018;
3. Appellants' Letter in Support of Appeal (1 page, undated);
4. Appellants' National Grid Gas Utility Bill (1 page, dated 2.11.19);
5. Appellants' National Grid Gas Utility Bill (1 page, dated 3.11.19);
6. Appellants' Verizon Utility Bill (1 page, dated 5.7.19);
7. Appellants' Car Loan Bill (1 page, dated 2.25.19);
8. Prior Hearing Officer's Entry That Appellants Did Not Appear for Hearing (1 page, dated 10.1.19);
9. Health Connector's Notice Dismissing Appeal (1 page, dated 10.3.19);
10. Appellants' Request to Reopen Appeal (1 page, received 10.15.19);
11. Health Connector's Notice of Hearing (3 pages, dated 9.3.19); and
12. Health Connector's Second Notice of Hearing (3 pages, dated 12.3.19).

## FINDINGS OF FACT

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

1. The Appellants (Husband and Wife) appealed from the Department of Revenue's assessment of a 24 month penalty for 2018 (12 months for Husband and 12 months for Wife). The basis for the penalty was that the Appellants were not insured at any time in 2018. Exhibits 1 and 2. Based on Exhibit 1 and the Husband's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellants filed a Massachusetts personal income tax return for 2018 as a married couple filing jointly with no dependents. The Appellants' federal adjusted gross income (AGI) for 2018 was \$40,959. Exhibit 1.
3. The Husband was 37 years old at the beginning of 2018 (the Wife is younger), and the Appellants resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellants' AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellants were not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.
5. The Appellants' 2018 AGI (\$40,959) was less than 300% of the federal poverty level (\$48,720 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 (Part II) the Appellants could afford to pay 7.45% of their income -- or \$254 per month -- for health insurance coverage in 2018. (The calculation is 7.45 % multiplied by \$40,959 AGI = \$3,051.44 per year divided by 12 months = \$254.28 per month.)
7. Based on DOR Table 4 (Region 2) the Appellants could obtain health insurance coverage for a married couple with no dependents for \$579 per month in 2018 (35 – 39 age bracket).
8. The Husband was employed in 2018 as an automobile detailer for a small employer that did not offer health insurance as a job benefit. Testimony.
9. The Husband's prior application for Health Connector coverage (or renewed coverage) was denied. Testimony. (I note that there is no information from the Health Connector in the hearing record about prior coverage or eligibility determinations for government subsidized health insurance.)
10. The Wife has been a "green card" holder since their marriage in mid-2017. Testimony.
11. The Appellants submitted bills to document their National Grid and Verizon utility charges (approximately \$280 per month and 130 per month respectively). There were no shut off notices, though the Husband testified that they were frequently late paying the Verizon bill. The National

Grid bills support the Husband's testimony that the Appellants' gas heat bills were in the range of \$300 per month during the winter. Testimony and Exhibits 4 – 6.

12. The Appellants were up-to-date in their car loan payments in the amount of \$353.98 per month. Exhibit 7 and Testimony.
13. The Husband has outstanding credit card bills in the approximate amount of \$6,000, and the Wife has a \$3,000 credit card balance. Testimony.
14. The Appellants send approximately \$300 per month to his mother in South America. Testimony.
15. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2018 Massachusetts income tax return.
16. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellants' (Husband and Wife's) appeal from the state Department of Revenue's (DOR) assessment of a tax penalty because neither Husband nor Wife had health insurance coverage in 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

In this case it is undisputed that neither the Husband nor the Wife had health insurance coverage. The decision of the appeal for 2018 turns on the “affordability” provision in the state law and on the application of the Health Connector’s financial hardship regulation.

The objective standards set forth in the DOR tables indicate that the Appellant could not afford health insurance coverage in 2018. Their federal adjusted gross income (\$40,959 AGI) was less than 300% of the federal poverty level (\$48,720 for a two-person household), as set forth in DOR Table 2. This indicates that the Appellants’ would satisfy the financial eligibility requirements for government subsidized health insurance in 2018, although the Husband testified that his application for health insurance had previously been denied. (I note that it is possible that the Appellants’ marriage in mid-2017 explains this result, but there is no way to make that determination based on the information in the hearing record.)

As Husband and Wife in 2018 the Appellants could afford to pay \$254 per month for health insurance premiums based on their joint income, as set forth in DOR Table 3. However, DOR Table 4 indicates that they would have to pay \$579 per month for coverage as a married couple with no dependents. The evidence from the DOR Tables indicates that health insurance was not affordable in 2018. See, e.g., Findings of Fact, Nos. 5 - 7, above; and Mass. Gen. Laws c. 111M, sec. 2 (a), summarized above. The evidence of the Appellants’ financial situation set forth in Findings of Facts, Nos. 11 - 14, above, further illustrates that the Appellants could not afford unsubsidized health insurance in 2018 under the financial hardship regulation. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellants] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [them] \*\* to experience a serious deprivation of food, shelter, clothing or other necessities.”).

After considering all the circumstances I conclude that it is appropriate to waive the entire penalty that was assessed against the Appellants (Husband and Wife) for 2018. I emphasize, however, that the Appellants should not assume that my decision indicates that they would also get relief from any penalty that might be assessed for future years. The Appellants should take immediate steps to

obtain subsidized health insurance benefits in order to comply with the “individual mandate” requirement in Massachusetts law. **See my RECOMMENDATION below.**

**PENALTY ASSESSED**

Number of Months Appealed: \_\_12 (Husband)\_\_\_\_ Number of Months Assessed: \_\_-0-\_\_\_\_

Number of Months Appealed: \_\_12 (Wife)\_\_\_\_ 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

**RECOMMENDATION.** During the appeal hearing we discussed that you have until the end of the “open enrollment” period on **JANUARY 23, 2020**, to file an application with the Health Connector to obtain government subsidized health insurance for 2020. You need to submit the information required by the application form, obtain an eligibility decision, select your preferred health insurance plan, and pay the first month’s premium to enroll in the plan that you choose.

I will repeat the contact information. You can apply online at [www.mahealthconnector.org](http://www.mahealthconnector.org) or call Customer Service at 1-877-243-4636. Allow for the fact that many other people may be applying at the deadline.

Most local hospitals and community health centers will also help you complete the application form. If you want more information I suggest that you contact Health Care For All, a private, nonprofit organization. You can call the free consumer help line at 1-800-243-4636 or use the website at [www.hcfama.org](http://www.hcfama.org).

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: 19-10615

**Appeal Decision:** Appeal denied.

**Hearing Issue:** Appellant's eligibility for subsidized insurance based on access to Medicare.

**Hearing Date:** January 9, 2020

**Decision Date:** January 15, 2020

### **AUTHORITY**

This hearing was conducted pursuant to the Patient Protection and Affordable Care Act, Section 1411, and the regulations promulgated in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*; Massachusetts General Laws Chapter 176Q, Chapter 30A, and the rules and regulations promulgated thereunder; and Title 956 of the Code of Massachusetts Regulations, section 12.00.

### **JURISDICTION**

Applicants and Enrollees are entitled to a hearing with the Health Connector using the policies and procedures for hearings set forth in Title 45 of the Code of Federal Regulations, section 155.500 *et seq.*, for informal hearings set forth in Title 801 of the Code of Massachusetts Regulations, section 1.02, and for hearings set for in Title 956 of the Code of Massachusetts Regulations, section 12.15.

### **ORIGINAL ACTION TAKEN BY THE HEALTH CONNECTOR**

On November 20, 2019, Appellant was determined ineligible for Health Connector plans. The reason the Appellant was denied subsidies is because Appellant has access to Medicare or is enrolled in Medicare.

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 9, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Affidavit of Health Connector record keeper authenticating records (1 page)
- Exhibit 2: Hearing Notice and other Appeals Unit correspondence with Appellant (19 pages)
- Exhibit 3: Log of Appeals Unit contacts with Appellant (1 page)
- Exhibit 4: Data sheet with eligibility data (1 page)
- Exhibit 5: Hearing Request Form (2 pages)
- Exhibit 6: Computer printout of Health Connector's eligibility determination results (4 pages)
- Exhibit 7: Health Connector Eligibility Notice dated November 20, 2019 (6 pages)

Exhibit 8: Health Connector’s print out showing information from the application database for the Appellant (5 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was born in 1952 and, at the time of the eligibility determination in November 2019, he was 67 years old. (Exhibit 8).
2. Appellant was enrolled in health coverage through Medicare at the times of his application and of his eligibility determination in November 2019.
3. Appellant applied to the Health Connector because he was seeking additional assistance through the MassHealth (Medicaid) program to supplement his Medicare coverage.
4. MassHealth is a separate government agency and it runs programs that are separate from the Health Connector’s programs. However, the two organizations use a joint application.
5. On November 20, 2019, Appellant was determined ineligible for Health Connector programs and was sent a notice of that determination, which he received. The notice stated that the reason for the denial was that Appellant did not qualify for Health Connector programs because he “had access to Medicare or [was] enrolled in Medicare.” Exhibit 7.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Connector is a health insurance exchange created under state law. Mass. Gen. Laws ch. 176Q, § 2. Among its duties, it serves as a health benefit exchange pursuant to the Patient Protection and Affordable Care Act (ACA), a federal law governing access to health insurance. See Mass. Gen. Laws ch. 176Q, § 3(u). Under the ACA, a health benefit exchange like the Health Connector must determine eligibility for premium tax credits, which are federal funds provided to eligible individuals to defray the cost of health insurance. 42 U.S.C. § 18082. The Health Connector provides these premium tax credits through the Connector Care program, which consists of health insurance coverage subsidized with state money as well as federal premium tax credits. In order to be eligible for Connector Care, an individual must be eligible for the federal premium tax credits. See 956 C.M.R. 12.08.

The eligibility criteria for premium tax credits are established by federal law. I.R.C. § 36B. That federal statute provides that an individual is not eligible for premium tax credits if that individual has “minimum essential coverage.” Id. § 36B(C)(2)(b). In turn, “minimum essential coverage” means coverage through certain designated programs, specifically including Medicare. I.R.C. § 5000A(f)(1)(A). Thus, an individual who is covered under Medicare is *not* eligible under federal law for premium tax credits and accordingly is not eligible under state regulation for Connector Care.

In this case, Appellant has stated in his application and in his testimony, and I have found as fact, that he was covered by Medicare at the time of his application. Accordingly, he was ineligible to receive subsidized coverage through the Health Connector. Thus, the denial of eligibility was correct.

In addition to providing premium tax credits for eligible individuals, a health benefit exchange like the Health Connector is also required to sell unsubsidized health insurance to eligible individuals. 42 U.S.C. § 18031(d)(2). However, under federal law, an exchange is not allowed to sell health insurance plans to an individual who is already covered by Medicare. See 42 U.S.C. § 1395ss(d)(3)(A)(i). This statute is designed to protect Medicare recipients from paying for health insurance coverage that would be duplicative of their Medicare coverage and therefore unnecessary. The Health Connector complied with this law by denying Appellant coverage under its own programs because he was already covered under Medicare. Thus, the determination that Appellant was not eligible for Health Connector programs was correct.

In fact, Appellant applied because he was seeking coverage through MassHealth, the state's Medicaid agency. MassHealth and the Health Connector are separate state entities and run separate health coverage programs, even though they use a single, integrated application form. Appellant stated in his testimony that he was seeking to obtain a MassHealth program that provides a supplement to Medicaid coverage. It is beyond my jurisdiction to determine his eligibility for that program. Appellant stated at the hearing that he is pursuing his application for that program and he is encouraged to do so.

#### **ORDER**

For the foregoing reasons, the appeal is denied.

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

If you disagree with this decision, pursuant to Title 45 of the Code of Federal Regulations, section 155.545, you may seek further review through the United States Department of Health and Human Services within thirty (30) days of receiving this decision. You also have the right to appeal to state court in accordance with Chapter 30A of the Massachusetts General Laws. To do so, 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: PA18-389

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 10, 2020

**Decision Date:** January 15, 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, who are husband and wife, both appeared at the hearing, which was held by telephone, on January 10, 2020. Additionally, a co-worker of the Appellants testified. The hearing record consists of the testimony of Appellants and the other witness, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellants' Schedule HC (1 page)
- Exhibit 3: Notice of Dismissal for failure to attend hearing (1 page)
- Exhibit 4: Appellants' Request to Vacate Dismissal (dated 8/23/2019) with attachments (4 pages)
- Exhibit 5: Information from MassHealth (dated 5/3/2019) (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants are a married couple. They will be referred to herein as Husband and Wife.
2. Husband was 47 and Wife was 45 at the end of 2018.
3. In 2018, Appellants resided in Norfolk County in the Commonwealth of Massachusetts.
4. Appellants filed their 2018 Massachusetts taxes with a status of married with no dependents.
5. Appellants reported on their Massachusetts tax return and confirmed in their testimony at the hearing that they had adjusted gross income in 2018 of \$61,748. This income consisted of earnings from jobs each of them held in Massachusetts.

6. Appellants reported on the Schedule HC that they filed with their Massachusetts tax return, and confirmed in their testimony at the hearing, that they did not have health insurance at any point in 2018.
7. Appellants both worked for the same employer. That employer offered health insurance to its employees. It would have cost Appellants approximately \$370 a week to purchase insurance that would have covered them both.
8. In addition to supporting themselves, Appellants provide financial support to two elderly parents and other family members.

## **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 could afford insurance but do not obtain it are subject to a tax penalty. To determine whether Appellants should face a penalty for not having insurance, I must first determine whether Appellants could have afforded insurance in 2018.

Appellants stated that their employer offered insurance to them at a cost of \$370 a week, which amounts to \$ 1,480 a month. This would not be affordable to them using state affordability standards that are set by the Health Connector’s board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2018, a married couple like Appellants with a household of two persons and an income of \$61,748 would be deemed able to afford 7.6% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board, and is printed in the instructions to Schedule HC, of which I take administrative notice. This means that Appellant was deemed able to afford 7.6% of \$61,748, which amounts to only \$4,692 annually or \$391 a month. Thus, the insurance offered by their employer was not affordable.

Further, Appellant would not have been eligible for government-subsidized insurance in 2018. Their adjusted gross income of \$61,748 was above \$48,720, which is 300 percent of the federal poverty limit for a household of two people. (I obtain the figure of \$48,720 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Persons with household incomes above 300% of the federal poverty limit are not eligible for Connector Care, which is government subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellants would not have been able to afford unsubsidized health insurance, using state affordability standards set by the Health Connector’s board. As stated above, Appellants were deemed able to afford \$391 a month for health insurance. In 2018, a married couple like Appellants who lived in Norfolk County and in which the older spouse was 47 years old could obtain an unsubsidized health insurance plan for two people at a monthly premium of \$707. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC, of which I take administrative notice. Thus, using state-established standards, Appellants were deemed unable to afford unsubsidized insurance in 2018.

Because Appellant would have not been able to obtain affordable coverage in 2018, they were not subject to the individual mandate penalty. Therefore, I do not need to determine whether they have established a hardship sufficient to remit that penalty. Rather, I am waiving the penalty in its entirety.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-455

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 10, 2020

**Decision Date:** January 15, 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 testified at the hearing, which was held by telephone, on January 10, 2020. The hearing record consists of Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellants' Schedule HC (1 page)
- Exhibit 3: Appellants' Request to Vacate Dismissal (dated 9/1/2019) (1 page)
- Exhibit 4: Appeal Case Information Sheet (as of 8/23/19) (1 page)
- Exhibit 5: Attendance sheet for 8/22/19 hearing (1 page)
- Exhibit 6: Appeal Case Information sheet (as of 7/10/2019) (1 page)
- Exhibit 7: Statement of Grounds for Appeal (w/ attachments) (31 pages)
- Exhibit 8: Notice of Hearing (dated 8/22/2019) (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 24 at the end of 2018.
2. In 2018, Appellant resided in Middlesex County in the Commonwealth of Massachusetts.
3. Appellant filed his 2018 Massachusetts taxes with a status of single with no dependents.

4. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2018 of \$35,018. This income consisted of earnings from two part-time jobs he held during the year
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that he had health insurance coverage in January through March 2018, but did not have health insurance for the remaining nine months of the year.
6. Appellant moved to Massachusetts in 2017 shortly after graduating college. At that time, he had little or no income. He applied for health insurance coverage through the Commonwealth, and was determined eligible for MassHealth, which is the Massachusetts Medicaid program. Under the MassHealth program, he was automatically enrolled in a health plan and did not have to pay a premium.
7. During 2017, and the first part of 2018, Appellant's income consisted of earnings from part-time work as a waiter. During this time, he was looking for another job in his profession.
8. At some point in early 2018, Appellant's eligibility for MassHealth was re-determined. At this point, his income was higher than it had been when he first applied for coverage in 2017 because he was working more hours as a waiter.
9. Because his income was higher, he no longer qualified for MassHealth, which is available only to persons with incomes at or below 133% of the federal poverty limit. Instead, he was eligible for Connector Care, which is state-subsidized health insurance available for individuals whose income is above the MassHealth threshold but below 300% of the federal poverty limit.
10. Appellant was sent a notice dated February 16, 2018, stating that he had been approved for MassHealth coverage.
11. About a week later, Appellant received notification dated February 24, 2018 that he was eligible for Connector Care. See Exhibit 7. This notice directed him that he was eligible for coverage commencing April 1 and that he had to enroll, which consisted of choosing a plan and paying the first month's premium, by March 23.
12. At the same time, Appellant received another notice dated February 24, 2018, stating that he did not qualify for MassHealth benefits because his income was too high.
13. Appellant stated that he was confused by these notices and believed that he was still eligible for and enrolled in MassHealth. However, in fact, his MassHealth coverage ended at the end of March when his Connector Care coverage would have begun. But, because he took no steps to enroll in Connector Care, he was not covered under that program.
14. During this period of time, Appellant had no medical needs and so never needed to use health insurance.
15. In August 2018, Appellant got a part-time, temporary job in his field. As a result of that job, his income increased. However, because that job was part-time, he was not eligible for health insurance offered by that employer.
16. At that point, Appellant went to the on-line health insurance application to update his income information, as he was expected to do. He was then determined to have an income that was too high for Connector Care. Instead, his only option was unsubsidized health insurance, which he determined was too expensive given his income.
17. At some point in early 2019, Appellant got a permanent, full-time job out of state and so moved out of the Commonwealth. At the time of the hearing, Appellant was living out of state and was

insured.

## **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 could afford insurance but do not obtain it are subject to a tax penalty.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interpret the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he was without insurance for only nine months in 2018. Because he is entitled to a three-month gap without penalty, he has only been assessed a penalty for six months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether Appellant could have afforded insurance in 2018.

Appellant worked at part-time jobs throughout 2018. As a result of his part-time status, he was not eligible for health insurance through his employers.

However, Appellant would have been eligible for Connector Care, which is subsidized insurance, for part of 2018. He was determined eligible for Connector Care in February 2018, for coverage that would start on April 1. However, because he did not enroll, he was not covered. Then, because of his increase in income in August 2018, he was determined to be no longer eligible. Thus, for five months of 2018, he had access to affordable insurance through the Connector Care program but was not enrolled.

After August 2018, however, he would not have been able to afford insurance. At that point, his only option would have been to purchase unsubsidized insurance. But this would not have been affordable to him using state affordability standards that are set by the Health Connector’s board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2018, an individual like Appellant with a household of one person and an income of \$35,018 would be deemed able to afford 5% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board, and is printed in the instructions to Schedule HC, of which I take administrative notice. This means that Appellant was deemed able to afford 5% of \$35,018, which amounts to only \$1,750 annually or \$145 a month. In 2018, an individual of Appellant’s age living in Middlesex County would have had to pay at least \$249 a month for unsubsidized insurance. I obtain this figure from Table 4, Premiums, printed in the instructions to the Schedule HC, of which I take administrative notice. Thus, unsubsidized insurance was not affordable.

Because Appellant had affordable insurance available to him for five months in 2018, but didn’t take it, I must determine if he established grounds for a waiver of the individual mandate penalty. I determine that he has. His inaction after receiving the Connector Care eligibility notice was understandable

because he had just received a notice a week earlier saying that he was eligible for MassHealth, even though that notice was superseded by a later one saying he was not eligible. Also, when he had initially been determined eligible for MassHealth in 2017, he had not been required to enroll or pay a premium, but had been automatically placed in health coverage without a premium. Thus, he believed the same thing would happen again in 2018. He clearly believed he was enrolled because he took steps to update his income information in August when his income increased. Thus, in light of all these circumstances, I am exercising my discretion to waive the penalty.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-474

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 10, 2020

**Decision Date:** January 15, 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 January 10, 2020. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)
- Exhibit 3: Request to vacate dismissal (rec'd 10/1/2019) (2 pages)
- Exhibit 4: Appeal Case Information (as of 9/6/19) (1 page)
- Exhibit 5: Attendance Sheet for 9/5/19 hearing (1 page)
- Exhibit 6: Appeal Case Information (as of 7/23/19) (1 page)
- Exhibit 7: Statement of Grounds for Appeal (w/ attachments) (3 pages)
- Exhibit 8: Form 1099-HC (3 pages)
- Exhibit 9: Form 1095-A (w/ attachments) (9 pages)
- Exhibit 10: Wage Statement (3 pages)
- Exhibit 11: Loan payment invoice (2 pages)
- Exhibit 12: Hearing Notice (dated 7/23/2019) (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 23 at the end of 2018.

2. In 2018, Appellant resided in Norfolk County in the Commonwealth of Massachusetts.
3. Appellant filed his 2018 Massachusetts taxes with a status of single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2018 of \$42,439. He earned this amount at a variety of part-time jobs that he held over the course of the year.
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that he had health insurance meeting minimum creditable coverage (MCC) standards in January and February 2018, but did not have any insurance for the remaining 10 months of the year. Exhibit 2.
6. Appellant's jobs did not provide him with health insurance in 2018 because he was working part-time.
7. Appellant purchased unsubsidized insurance at the start of 2018. However, he found it too difficult to make the premium payments given his other expenses, and so he was forced to discontinue coverage after February.
8. Appellant reported expenses that included rent, car insurance, car loan, a loan for a phone, and utilities. Appellant stated that he also sent money to his family that lived overseas.
9. Appellant stated that he has recently obtained a full-time job and believes that he will be able to obtain health insurance through that job.

## **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.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interpret the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he reported on his Schedule HC that he was without insurance for ten months in 2018 and thus, with the three-month grace period, he was assessed a penalty for seven months.

In this case, I must first determine whether Appellant had affordable insurance available to him in 2018, using affordability standards set by the Health Connector board in accordance with state statute. M.G.L. c. 111M, § 2(a). Appellant stated, and I credit, that he was not eligible for health insurance through employment because he worked a variety of part-time jobs.

Further, Appellant would not have been eligible for government-subsidized insurance in 2018. His adjusted gross income of \$42,439 was above \$36,180, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,180 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Under state law, persons with household incomes above 300% of the federal poverty limit are not eligible for ConnectorCare, which is government subsidized insurance. See M.G.L. c. 176Q, § 3(b); 956 CMR 12.04 (ConnectorCare eligibility requirements).

However, Appellant would be deemed able to afford unsubsidized health insurance in 2018, using state affordability standards that are set by the Health Connector's board. During 2018, an individual like Appellant in a household of one person and an income of \$42,439 was deemed able to afford 7.6% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board, and is printed in the instructions to Schedule HC, of which I take administrative notice. This means that Appellant was deemed able to afford 7.6% of \$42,439, which amounts to \$3,225 annually or \$268 a month. In 2018, an individual like Appellant who lived in Norfolk County and was under 30 years of age could obtain an unsubsidized health insurance plan at a monthly premium of \$249. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC, of which I take administrative notice. Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2018.

Because Appellant is deemed able to have afforded insurance in 2018, I must determine whether there are grounds to waive the penalty for failure to do so. Here, I determine that there are such grounds. The amount that Appellant could afford was only slightly above what he would have had to pay to obtain health insurance. Making that payment would have caused him financial risk and hardship. In addition to rent and utilities, he had to repay a car loan and pay for car insurance; the car was a necessity in order to get to one of his jobs. He also felt an obligation to send money back to family overseas. Moreover, there was a significant period of time in the middle of 2018, when he was overseas visiting family, during which time he was not able to work. Given these facts, I determine that the cost of purchasing health insurance sufficient to meet the individual mandate would have caused Appellant to experience a significant deprivation of the necessities of life. That circumstance qualifies as grounds to waive the tax penalty. See 956 CMR 6.08(1)(e). Based on all these factors, I exercise my discretion to waive the penalty for 2018, in the hope that Appellant will enroll in health insurance through his employment in 2020.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-476

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 10, 2020

**Decision Date:** January 15, 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 January 10, 2020. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)
- Exhibit 3: Request to Vacate Dismissal (dated 9/13/2019) (1 page)
- Exhibit 4: Appeal Case Information sheet as of 9/6/2019) (1 page)
- Exhibit 5: Attendance sheet for 9/6/19 hearing (1 page)
- Exhibit 6: Appeal Case Information sheet (as of 7/23/2019) (1 page)
- Exhibit 7: Statement of Grounds for Appeal (2 pages)
- Exhibit 8: Notice of Hearing (dated 7/23/2019) (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 26 at the end of 2018.
2. In 2018, Appellant resided in Middlesex County in the Commonwealth of Massachusetts.
3. Appellant filed her 2018 Massachusetts taxes with a status of single with no dependents.

4. Appellant reported on her Massachusetts tax return and confirmed in her testimony at the hearing that she had adjusted gross income in 2018 of \$42,135. See Exhibit 2.
5. Appellant reported on the Schedule HC that she filed with her Massachusetts tax return that she did not have health insurance meeting minimum creditable coverage (MCC) standards for the first 10 months of 2018, but was insured in November and December.
6. Despite the information on her Schedule HC, Appellant testified that she was covered under her parents' health insurance plan up to her 26<sup>th</sup> birthday, which was in March 2018.
7. Appellant worked in 2018 for an employer that offered health insurance to its employees, for which she qualified.
8. Appellant stated that, when she realized she would no longer be covered by her parents' health insurance after her 26<sup>th</sup> birthday, she tried to contact the human resources department for her employer. However, she stated that she had difficulty connecting with the appropriate person because the department was being reorganized and relocated out-of-state. As a result, she missed the 60-day period after she came off her parents' insurance during which she could have signed up for her employer's health insurance.
9. She then had to wait until the next open enrollment period to sign up for insurance. She did that and got insurance effective November 2018. She was still insured at the time of the hearing.

## **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.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interpret the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, she reported on her Schedule HC that she was without insurance for only ten months in 2018 and thus, with the three month grace period, she was assessed a penalty for seven months. In fact, she was covered for the first three months of 2018 on her parents' plan, and so was only without insurance for seven months (the period from April through October). Because she is entitled to a three-month gap without penalty, she should only be assessed for a penalty of four months.

In this case, I must first determine whether, under affordability standards set by the Health Connector board pursuant to state statute, M.G.L. c. 111M, § 2(a), Appellant had affordable insurance available to her in 2018. During the period when she was without insurance, she was eligible for insurance through her employer. This was affordable to her as evidenced by the fact that she has been enrolled in it since November 2018.

Additionally, Appellant could have afforded to purchase unsubsidized insurance. Given her annual income of \$42,135, she is deemed able to afford 7.6% of income for health insurance using the affordability standards set by the Health Connector board. (I obtain the figure of 7.6% from Table 3, Affordability, which summarizes the Health Connector board affordability standards and is included in

the instructions to the Schedule HC, of which I take administrative notice.) This would mean that Appellant was deemed able to afford 7.65% of \$42,135, which is \$3,202 annually or \$266 a month. In 2018, a person aged 26 in Middlesex County could have obtained unsubsidized insurance at a premium of \$230 a month. I obtain that figure from Table 4, Premiums, in the instructions to the Schedule HC, of which I take administrative notice. Thus, unsubsidized insurance would have been affordable to the Appellant.

Because Appellant is deemed able to have afforded insurance in 2018, I must determine whether there are grounds to waive the penalty for failure to do so. I conclude there were such grounds. Appellant made an effort to obtain insurance through her employer shortly after she reached her 26<sup>th</sup> birthday and was no longer able to be covered under her parents' insurance. There is only a 60-day period after such an event when an individual can sign on to insurance outside of open enrollment period, and Appellant missed that time period. However, as soon as she was able to sign up at the next open enrollment period, she did so, and remained insured through the time of the hearing. Given these circumstances, I exercise my discretion to waive the penalty in the entirety.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-501

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 10, 2020

**Decision Date:** January 15, 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 January 10, 2020. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)
- Exhibit 3: Request to Vacate Dismissal (rec/d 10/1/2019) (2 pages)
- Exhibit 4: Eligibility Approval Notice (dated 5/14/2019) (1 page)
- Exhibit 5: Medical and dental insurance card (copy) (1 page)
- Exhibit 6: Appeal Case Information sheet (as of 9/8/2019) (1 page)
- Exhibit 7: Attendance sheet for 9/6/19 hearing (1 page)
- Exhibit 8: Notice of Hearing (dated 7/25/2019) (4 pages)
- Exhibit 9: Appeal case information sheet (as of 7/2019) (1 page)
- Exhibit 10: Statement of Grounds (w/ attachments) (12 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 24 at the end of 2018.
2. In 2018, Appellant resided in Suffolk County in the Commonwealth of Massachusetts.

3. Appellant filed his 2018 Massachusetts taxes with a status of single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2018 of \$23,502. See Exhibit 2.
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2018.
6. Appellant moved to Massachusetts in late 2017. Prior to that time, he had been a student and had been covered under student health insurance.
7. Upon moving to Massachusetts, Appellant took a job in which he was enrolled in health insurance. However, that job ended in late 2017. Appellant was then out of work until February 2018.
8. In February 2018, he moved to a new employer. He was a part-time employee. That employer offered insurance to part-timers, but required such an employee to opt into insurance in order to enroll. Appellant did not realize that he had to enroll within a certain time period because he did not understand how health insurance worked. He believes that this insurance would have cost him \$150 a month or more.
9. Appellant did not realize that he was required to have health insurance until it came time for him to pay his 2018 taxes and he was subject to the tax penalty.
10. At that point, he applied for insurance through the Health Connector and was found eligible for a Connector Care plan. Exhibit 4. He enrolled in that plan and remained enrolled as of the date of the hearing. Exhibit 5.

## **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. In this case, I must first determine whether, under affordability standards set by the Health Connector board pursuant to state statute, M.G.L. c. 111M, § 2(a), Appellant had affordable insurance available to him in 2018.

For the first two months of the year, Appellant was not working and so did not have access to employer-sponsored insurance. For the remaining 10 months of the year, Appellant was offered insurance through an employer. However, that insurance would have cost \$150 a month. This would not have been affordable to him, under the affordability standards set by the Health Connector board. Under those standards, a person with Appellant’s annual income was deemed able to afford only 2.9% of income for insurance. (I obtain the figure of 2.9% from Table 3, Affordability, which summarizes the Health Connector board affordability standards and is included in the instructions to the Schedule HC, of which I take administrative notice.) This would mean that Appellant was deemed able to afford 2.9% of \$23,502, which is \$681 annually or \$56 a month. Thus, the employer’s insurance would have been unaffordable.

However, Appellant would have been eligible for government-subsidized insurance in 2018. His income of \$23,502 is below \$36,180, which is 300 percent of the federal poverty limit for a household of one

person. (I obtain the figure of \$36,180 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Persons with household incomes below 300% of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance, provided they meet the other eligibility requirements of citizenship or legal permanent immigration status, residence in Massachusetts, and lack of access to other forms of subsidized coverage. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant met these other criteria because he was determined eligible for Connector Care in 2019 when he applied.

Because Appellant is deemed able to have afforded insurance in 2018, I must determine whether there are grounds to waive the penalty for failure to do so. I conclude there were such grounds. Appellant did not apply for government-subsidized insurance in 2018 because he did not know that health insurance was required in Massachusetts and that government subsidized insurance was available to him. When he learned these facts at the time that he was filing his 2018 taxes, he promptly applied and became enrolled in health insurance. His unfamiliarity with these matters is understandable given that he had only moved to Massachusetts in late 2017 and had only been in the United States for a relatively short period of time before then. Given these circumstances, I exercise my discretion to waive the penalty in the entirety.

**PENALTY ASSESSED**

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

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

Tax Penalty Appeal Decision—Docket No. PA18-562

**Appeal Decision:** Appeal Approved -- 2018 tax penalty overturned.

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

**Hearing Date:** January 9, 2020

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2018;
3. Health Connector’s Notice of Hearing (3 pages, dated 8/6/19); and
4. Health Connector’s Second Notice of Hearing (3 pages, dated 12/3/19).

**FINDINGS OF FACT**

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

1. The Appellant appealed from the Department of Revenue's assessment of a 4 month penalty for 2018. The basis for the penalty was that the Appellant was insured for the months of August – December 2018 (5 months) but not for the months of January – July 2018 (7 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 5 months insured = 7 months uninsured minus 3-month administrative grace period = 4 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2018 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2018 was \$21,500. Exhibit 1.
3. The Appellant was 52 years old at the beginning of 2018 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2018. DOR Table 1.
5. The Appellant's 2018 AGI (\$21,500) was less than 300% of the federal poverty level (\$36,180 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 2.90 % of his income -- or \$52 per month -- for health insurance coverage in 2018. (The calculation is 2.90 % multiplied by \$21,500 AGI = \$623.50 per year divided by 12 months = \$51.95 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$411 per month in 2018.
8. According to the Appellant's appeal hearing testimony his life went "off the rails" in 2014 when he lost a good paying job with health insurance benefits. I find that he did not have a regular job again until mid-2018 and that he promptly enrolled in his new employer's employer-sponsored health plan. The Appellant had health insurance coverage starting in August 2018 after a short employer-imposed waiting

period. The Appellant's rate of compensation in his new job is substantially less than in the job that he lost in 2014. Testimony and Exhibit 1.

9. By 2018 the Appellant was no longer eligible for unemployment insurance benefits. His income in the first half of the year came from work as an Uber driver. The Appellant lives with his brother due to his financial situation. His living expenses include a car loan and car insurance. Testimony.
10. The Appellant owes the Internal Revenue Service (IRS) approximately \$10,000 for overdue federal income taxes and pays \$25 per month under a repayment plan. The Appellant also owes the state DOR an unspecified amount for penalties due to the lack of health insurance in prior years. Testimony. See also Exhibit 1 (appeal of 2015 tax penalty dismissed because "no documents received by DOR").
11. It appears that the Appellant made some unsuccessful efforts to investigate the availability of government subsidized health insurance. The testimony was, however, too vague to make any fact findings. Testimony.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2018 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2018. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2018. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2018.)

## **ANALYSIS AND CONCLUSIONS OF LAW**

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a tax penalty because the Appellant did not have health insurance coverage for the months of January through July 2018. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

The Appellant In this case had a lengthy period of unemployment after he lost a good paying job with health insurance benefits in 2014. The Appellant finally obtained

another regular job in mid-2018. At that point he enrolled in the health plan offered to him by his new employer. He had health insurance coverage starting in August 2018, as set forth by the DOR in Exhibit 1 and as testified to by the Appellant. The Appellant's 2018 financial circumstances are captured by the facts that he was no longer eligible for unemployment insurance benefits, that he was living with his brother, and that he owed the IRS approximately \$10,000 for federal income taxes and was on a \$25 per month payment plan with the IRS.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2018. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities.”).

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA18-777

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 16, 2020

**Decision Date:** January 21, 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 January 16, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (4 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)
- Exhibit 3: Letter from Appellant to the Health Connector dated 8/19/19, with attachments (3 pages)
- Exhibit 4: Appeal Case Information sheet (as of 8/2/19) (1 page)
- Exhibit 5: Attendance sheet (8/1/19) with hearing exhibits (10 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 22 at the end of 2018.
2. In 2018, Appellant resided in Middlesex County in the Commonwealth of Massachusetts.
3. Appellant filed his 2018 Massachusetts taxes with a status of single with no dependents.
4. Appellant filed his 2018 taxes as a Massachusetts resident.
5. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2018 of \$32,762. This income consisted of earnings from two part-time jobs he held in Massachusetts.

6. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that he did not have health insurance at any point in 2018.
7. Appellant moved to Massachusetts in 2014 at which time he was a full-time student enrolled in a college. He obtained student health insurance through the college that he attended.
8. In late 2017, he took a leave of absence from school, and consequently was no longer eligible for student health insurance.
9. At that point, he investigated the possibility of applying for Connector Care, which is government subsidized insurance, but he determined that he would not have been eligible. At that point, he was still being taken as a dependent on his parents' income taxes.
10. In 2018, Appellant supported himself at two part-time jobs. Appellant did not qualify for health insurance at either of the part-time jobs he held during 2018.
11. Because he was self-supporting during that year, he was no longer a dependent on his parents' taxes.
12. At one point in 2018, Appellant considered the option of re-enrolling in college. In order to do so, he had to pay an outstanding debt of \$5,000, which used up the amount of savings that he had managed to accumulate.
13. However, Appellant never re-enrolled in school and so was never eligible for student health insurance.
14. In June 2019, Appellant moved out of Massachusetts and was living out of state at the time of the hearing.

## **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. To determine whether Appellant should face a penalty for not having insurance, I must first determine whether Appellant could have afforded insurance in 2018.

Appellan't employers did not offer health insurance to him and so he did not have employment sponsored insurance available to him in 2018.

However, Appellant would have been eligible for government-subsidized insurance in 2018. His adjusted gross income of \$32,762 was below \$36,180, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,180 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance, provided they meet the other eligibility requirements of citizenship or legal permanent immigration status, residence in Massachusetts, and lack of access to other forms of subsidized coverage. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude based on Appellant's testimony that in 2018 he was a citizen, was a Massachusetts resident, and was not eligible for employer insurance, and so met the eligibility criteria.

However, Appellant was not enrolled in Connector Care during 2018 because he believed he was not eligible. At the time that he first investigated applying for state-subsidized health insurance, he would not have been eligible because he was a dependent of his parents who lived out of state. In order to be eligible for Connector Care, an individual must be eligible to receive premium tax credits, which is a subsidy offered by the federal government under the Affordable Care Act. See 956 CMR 12.04 (Connector Care eligibility requirements.) In turn, an individual is not eligible to receive premium tax credits if, when that individual applies, they are being taken as a dependent on someone else's taxes. 45 C.F.R. 155.300 (definition of tax filer). Thus, at the time he looked at applying, he was not eligible. His status changed in 2018 when he became self-supporting. However, he did not realize that this change in status meant that he had become eligible for Connector Care.

Without government subsidized insurance, Appellant would not have been able to afford health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2018, an individual like Appellant in a household of one person and an income of \$32,762 was deemed able to afford 5% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board, and is printed in the instructions to Schedule HC, of which I take administrative notice. This means that Appellant was deemed able to afford 5% of \$32,762, which amounts to only \$1,638 annually or \$136 a month. In 2018, an individual like Appellant who lived in Middlesex County and was 24 years old would have had to pay a monthly premium of at least \$249 to obtain an unsubsidized health insurance plan. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC, of which I take administrative notice. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2018.

Because Appellant would have been able to obtain affordable coverage through Connector Care but didn't, I must determine whether there are grounds to waive the penalty for failure to enroll in health insurance coverage. Here, I determine that there are such grounds. Appellant understandably believed, based on his initial investigation in 2017, that he was not eligible to receive Connector Care. Further, his status over the course of the year was unclear, because he was considering re-enrolling in school, although he did not ultimately do that. Further, his financial situation was challenging because he was required to pay back a significant debt to his former college. Based on all these factors, I exercise my discretion to waive the penalty for 2018.

**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: PA18-886

**Appeal Decision** The appeal is approved; the tax penalty is waived in full.

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

**Hearing Date:** January 16, 2020

**Decision Date:** January 21, 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's authorized representative, who was also Appellant's father, appeared at the hearing, which was held by telephone on January 16, 2020. The hearing record consists of the testimony of Appellant's representative and the following documents, which were admitted into evidence:

- Exhibit 1: Authorized Representative Designation Form (2 pages)
- Exhibit 2: Health Connector Hearing Notice (8 pages)
- Exhibit 3: Health Connector Hearing Notice (different address) (4 pages)
- Exhibit 4: Hearing Notice dated 10/24/18 (4 pages)
- Exhibit 5: Appeal Case Information sheet (1 page)
- Exhibit 6: Statement of Grounds for Appeal (3 pages)
- Exhibit 7: Letter dated 5/29/2019 (1 page)
- Exhibit 8: Excerpts from eligibility notices (4 pages)
- Exhibit 9: Letter dated 5/28/2019 (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 46 at the end of 2018.
2. In 2018, Appellant resided in Worcester County in the Commonwealth of Massachusetts.
3. Appellant filed his 2018 Massachusetts taxes with a status of single with no dependents.

4. Appellant reported on his Massachusetts tax return and his representative confirmed in his testimony at the hearing that Appellant had adjusted gross income in 2018 of \$18,192. This income consisted of earnings from work at a seasonal job he held in Massachusetts.
5. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and his representative confirmed in his testimony at the hearing, that Appellant had health insurance meeting minimum creditable coverage (MCC) standards in January, February and December of 2018, but did not have health insurance for the remaining nine months of that year.
6. In 2017, Appellant applied for health coverage through the state's electronic eligibility system and was found eligible for coverage through Connector Care, which is a program of subsidized health insurance administered by the Health Connector. Appellant enrolled in a health plan offered by Tufts Direct, an insurer.
7. At some point in early 2018, Appellant was sent a request by the Health Connector seeking verification of his income.
8. Appellant's representative testified that he sent the required information, which consisted of some pay stubs, by the due date of February 21, 2018.
9. On March 2, 2018, the Health Connector sent Appellant a notice stating that he was not eligible for coverage because "we did not get information needed to verify your eligibility." Exhibit 8.
10. At the same time, however, Appellant received an insurance card from Tufts Direct, his insurer. Because he believed that he had sent in the required information and because he got the insurance card, he concluded that he was still insured despite the March 2 notice. But in fact his coverage had ended as of the end of February. Appellant did not seek medical services in 2018, and so he was not made aware that his coverage had lapsed.
11. In November 2018, Appellant was sent a notice stating that he was eligible for Connector Care. At that point, he was enrolled in a new health plan effective December 1, 2018. He was still insured as of the date of the hearing.

## **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.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interpret the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he was without insurance for only nine months in 2018. Because he is entitled to a three-month gap without penalty, he has been assessed a penalty for only six months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether Appellant could have afforded insurance in 2018.

Appellant worked at a seasonal job and was employed for only part of the year. That job did not offer health insurance, and so Appellant did not have employer-sponsored insurance available to him in 2018.

However, Appellant would have been eligible for government-subsidized insurance in 2018. His adjusted gross income of \$18,192 was below \$36,180, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,180 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government subsidized insurance, provided they meet the other eligibility requirements of citizenship or legal permanent immigration status, residence in Massachusetts, and lack of access to other forms of subsidized coverage. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant met the other eligibility criteria because he had been enrolled in Connector Care in late 2017 and early 2018.

However, Appellant was not enrolled in Connector Care during 2018 because the Health Connector did not receive information that Appellant was required to provide in order to verify his eligibility. The reason for this is not clear from the record. Appellant's representative testified that he sent the information. The Health Connector provided notice in March 2018 that it hadn't received the information, but Appellant did not act on that notice because he believed it was erroneous. At some later point, the Health Connector re-established Appellant's eligibility so the information may have been provided or else Appellant's income may have been verified in another way. In any case, the sequence of events was sufficiently confusing that it is understandable Appellant did not act on the March notice.

Without government subsidized insurance, Appellant would not have been able to afford health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2018, an individual like Appellant in a household of one person and an income of \$18,192 was deemed able to afford 2.9% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board, and is printed in the instructions to Schedule HC, of which I take administrative notice. This means that Appellant was deemed able to afford 2.9% of \$18,192, which amounts to only \$527 annually or \$43 a month. In 2018, an individual like Appellant who lived in Worcester County and was 46 years old would have to pay a monthly premium of \$354 in order to obtain unsubsidized insurance. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC, of which I take administrative notice. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2018.

Because Appellant would have been able to obtain affordable coverage through Connector Care but didn't, I must determine whether there are grounds to waive the penalty for failure to enroll in health insurance coverage. Here, I determine that there are such grounds. Appellant did obtain health insurance through Connector Care in late 2017. Because of an unexplained error, he lost that coverage because the Health Connector did not receive required information to verify his eligibility. However, he maintains that he sent the required information. At some point, the Health Connector restored his coverage indicating that it did have sufficient information to verify his income eligibility. Other than the March notice, which was confusing, Appellant would not have realized that he did not have coverage because he was not responsible for paying a premium and he did not have occasion to use health insurance during the nine months when he was uninsured. Based on all these factors, I exercise my discretion to waive the penalty for 2018.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-215

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** November 20, 2019

**Decision Date:** January 13, 2019

### **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/wife appeared at the hearing, which was held by telephone, on November 20, 2019. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)

Exhibit 2: 3/14/19 Appeal (6 pages)

Exhibit 3: 5/14/19 and 10/17/19 Hearing Notices (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants appealed from the assessment of a one-month penalty against the Appellant/wife and a twelve-month penalty against the Appellant/husband on their 2018 income tax return. The Appellants checked off "Other" on the appeal form, as the basis for their appeal, without stating anything more. (Exhibit 1)
2. The Appellants' filing status for 2018 was Married Filing Joint with two dependents. The Appellants' federal AGI in 2018 was \$99,856. The Appellants resided in Berkshire County in 2018. The Appellants turned thirty-nine and thirty-six years old in 2018. (Exhibit 1)
3. The Appellant/wife had health insurance coverage in 2018 through her employer through May 2018, when her employer reduced her job status from full time to per diem and her coverage ended. (Appellant's testimony)
4. The Appellant/wife took a part-time job with another employer soon after losing her job. Her new employer offered health insurance coverage but only to full-time employees. The Appellant did not look

for health insurance coverage at this time because she expected to become a full-time employee with this employer shortly and get her employer-sponsored coverage at that time. (Appellant's testimony)

5. The Appellant/wife became a full-time employee with her employer effective July 1, 2018. Her employer had a three-month waiting period for the coverage to take effect. The Appellant enrolled in the coverage as soon as she could. The coverage became effective on October 1, 2018, and continued for the rest of 2018. (Appellant's testimony; Exhibit 1)
6. The Appellant/husband had no health insurance coverage in 2018. He worked for the same employer throughout the year. His employer did not offer health insurance coverage. (Appellant's testimony; Exhibit 1)
7. The Appellant/husband made no effort to obtain health insurance coverage in 2018. (Appellant's testimony)
8. According to Table 2 of the 2018 Schedule HC, the Appellants were not eligible for government-subsidized insurance in 2018, since their AGI for 2018 was more than \$73,800 for a family of four.
9. According to Table 3, Affordability, of the Schedule HC 2018, based on their 2018 AGI and Married Filing Joint with two dependents tax-filing status, the Appellants could have afforded to pay up to 8.05 percent of their income for health insurance in 2018, which calculates to a monthly premium of up to \$669 for coverage.
10. According to Table 4, Premiums, health insurance coverage in the private market was available to the Appellant/husband in 2018 for a monthly premium of \$260, based on his age and county of residence in 2018.
11. The Appellants' basic monthly expenses in 2018 included: rent, \$962; utilities, \$315; car payment, \$455; truck payment, \$500; gas, \$350; insurance, \$225; groceries, \$450; daycare (for 12 year old and 3 year old), \$325; clothing, \$175; phones, \$250; cable/Internet, \$200; and, household miscellaneous, \$100, for a total of \$4,307/monthly and \$51,684 for the year. (Appellant's testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

M.G.L.c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant/wife's employer changed her employment status from full time to per diem and terminated her employer-sponsored coverage at the end of May 2018 as a result, the Appellant had a three-month grace period, through August 2018, to obtain new coverage. Although the Appellant/wife did not obtain new coverage until October 1, 2018, the Appellant/wife made a good faith effort to obtain new coverage by finding new full-time employment with an employer that offered health insurance coverage, almost immediately. The Appellant enrolled in the coverage as soon as she could. However, the coverage did not take effect until October 1, 2018, due to the employer's policy of a three-month waiting period for new employees. Under these circumstances, I conclude that, as the Appellant/wife substantially met the requirements of the individual mandate in 2018, her one-month penalty for 2018 shall be waived, under M.G.L.c. 111M, § 2.

However, there is no evidence in the record to support the conclusion that the Appellant/husband's twelve-month tax penalty should be waived or reduced. The Appellant/husband made no effort to obtain health insurance coverage in 2018. While the Appellants were not eligible for government-subsidized health insurance coverage in 2018, if the Appellant/husband had checked for coverage in the private market in 2018, he would have found that health coverage was available to him in 2018 at a monthly cost of \$260, based on his age and county of residence. As the Appellants' federal AGI for 2018 was nearly \$100,000, and the Appellants' 2018

expenses for basic necessities were just over \$50,000, the Appellant/husband could have afforded to pay \$3,120 for health insurance coverage for all of 2018.

Therefore, I conclude that the Appellant/husband has not established that health insurance that provided minimum creditable coverage was not affordable for him in 2018, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant/husband's twelve-month penalty for 2018 shall not be waived or reduced.

**PENALTY ASSESSED**

Number of Months Appealed:   13                        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: PA18-426

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 20, 2019

**Decision Date:** January 6, 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 November 20, 2019. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
- Exhibit 2: 4/7/19 Appeal (15 pages)
- Exhibit 3: 10/17/19 and 7/8/19 Hearing Notices (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants' filing status for 2018 was Married Filing Joint with no dependents. The Appellants' federal AGI in 2018 was \$86,844. The Appellants resided in Middlesex County in 2018. The Appellants turned twenty-eight years old and twenty-nine years old in 2018. (Exhibit 1)
2. On April 7, 2019, the Appellants appealed from the assessment of a two-month penalty against the Appellant/husband on their 2018 income tax return, checking off "Other," as the basis of their appeal.
3. The Appellant/husband was an international graduate student in the Boston area from January 2018 to May 2018, when he completed his Master's program. The Appellant had health insurance coverage through his university's student health plan, from January 2018 through July 2018. (Appellant's testimony; Exhibit 2)
4. The Appellant remained in the Boston area, in nonimmigrant student status, doing post-completion practical training, after May 2018. In doing so, the Appellant worked part time for two different employers. One started in mid-July 2018 and paid \$1,042 monthly, and the other started in September

2018 and paid \$2,166 monthly, for a total of \$14,397 income for the Appellant/husband in 2018. Neither employer offered health insurance coverage. (Appellant's testimony; Exhibit 2)

5. Prior to losing his coverage at the end of July 2018, the Appellant sought health insurance coverage through the Health Connector. He was told that he was not eligible, due to his non-resident status. (Appellant's testimony; Exhibit 2)
6. The Appellant then checked out health insurance coverage in the private market and discovered that he was eligible for only a limited number of plans due to his status as a non-permanent resident on OPT and that none of these plans met MCC standards. The Appellant enrolled in the StudentSecure plan from September 3, until December 9, 2018, when the Appellant was to get married and would become eligible for his wife's employer-sponsored insurance coverage. (Appellant's testimony; Exhibit 2)
7. The Appellants got married on December 9, 2018. (Appellant's testimony; Exhibit 2)
8. The Appellant was out of the country on vacation with his family from August 15 to September 2, 2018. (Appellant's testimony; Exhibit 2)
9. According to Table 2 of the 2018 Schedule HC, the Appellant/husband was not eligible for government-subsidized insurance in 2018, since the Appellants' AGI for 2018 was more than \$48,720 for a family of two.
10. According to Table 3, Affordability, of the Schedule HC 2018, based on their 2018 AGI and Married Filing Jointly tax-filing status, the Appellants could have afforded to pay up to 8.05% percent of their income for health insurance in 2018, which calculates to a monthly premium of up to \$582 for coverage.
11. According to Table 4, Premiums, the Appellant/husband could have purchased health insurance coverage in the private market in 2018 for \$249/monthly, based on his age and county of residence in 2018.

## **ANALYSIS AND CONCLUSIONS OF LAW**

M.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. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had health insurance through the first seven months of 2018 and had a three-month grace period through October 2018 to obtain new coverage, at issue here is the Appellant/husband's failure to have health insurance coverage during the last two months of 2018. While the Appellants filed their 2018 taxes jointly, they did not get married until the middle of December 2018. Up until that time, the Appellant was a non-resident student. In that status, he had limited opportunities to obtain new coverage after graduating from his master's program and losing the coverage offered by his university. Although the Appellant continued in nonimmigrant student status while doing practical training with two different employers, neither employer offered health insurance coverage to him. During this time, the Appellant earned his only income for 2018, totaling just \$14,397.

I credit the Appellant's testimony that he made a diligent effort to obtain new health insurance in 2018, after finishing his Master's program and losing his school provided coverage, as he testified consistently and submitted ample documentation in support of his testimony. The Appellant was in a difficult situation due to his nonimmigrant status that affected his access to health insurance coverage through the Health Connector and through the private market. Although the insurance coverage that he found to bridge the three-month gap until he married and obtained coverage through his spouse's coverage did not meet MCC standards, the Appellant found the coverage that seemed to be designed for people in nonimmigrant student status seeking health insurance coverage, like him. Under these circumstances and given the Appellant's very limited income in 2018, I conclude that the Appellant could not afford to purchase health insurance that met minimum creditable coverage standards during the last five months of 2018.

Accordingly, the Appellant's two-month penalty for 2018 shall be waived entirely.

**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 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: PA18-618

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** October 1, 2019

**Decision Date:** January 3, 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 October 1, 2019. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellant to submit additional evidence. On December 12, 2019, the Appellant submitted additional evidence, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
- Exhibit 2: 5/6/19 Appeal (8 pages)
- Exhibit 3: 9/3/19 Hearing Notice (3 pages)
- Exhibit 4: Summary of Benefits for Health Insurance Coverage, BMC Select Plan

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2018 was Single with no dependents. The Appellant's federal AGI in 2018 was \$28,907. The Appellant resided in Middlesex County in 2018. The Appellant turned thirty-one years old in 2018. (Exhibit 1)
2. The Appellant appealed from the assessment of a six-month penalty on her 2018 income tax return, checking off "Other," as the basis of her appeal. (Exhibit 2)
3. The Appellant had employer-sponsored health insurance during the first two months of 2018. The Appellant lost this coverage when she left employment. The Appellant declined the COBRA coverage offered by her employer because it cost too much. (Appellant's testimony)
4. The Appellant started a new job at a medical center in April 2018. Her new employer offered several tiered health insurance plans to employees, including one with no monthly premium. At new employee

orientation, the Appellant used a computer portal to complete new employee forms. The Appellant used the portal to sign up for various benefit plans, including health insurance. The Appellant decided to sign up for the no-cost plan and thought that she had checked the box to do so at the time. (Appellant's testimony; Exhibit 4)

5. The medical center's no-cost plan for employees met MCC standards. (Exhibit 4)
6. The Appellant had no need for medical care while she worked at the medical center. (Appellant's testimony)
7. The Appellant left employment at the medical center in September 2018 and believed that her coverage terminated at the end of that month. (Appellant's testimony)
8. The Appellant obtained new health insurance coverage, effective in December 2018. (Appellant's testimony; Exhibit 1)
9. It was not until February 2019, when the Appellant was preparing to do her tax return for 2018, that she learned that she did not have health insurance coverage through her employer from May 2018 through September 2018. The Appellant had contacted the medical center about not yet receiving her 1099HC and was told that she had never enrolled in the employer's health insurance coverage in 2018. (Appellant's testimony; Exhibit 2)
10. According to Table 2 of the 2018 Schedule HC, the Appellant was eligible for government-subsidized insurance in 2018, since her AGI for 2018 was less than \$36,180 for a family of one.
11. According to Table 3, Affordability, of the Schedule HC 2018, based on her 2018 AGI and Single tax-filing status, the Appellant could have afforded to pay up to 4.2 percent of her income for health insurance in 2018, which calculates to a monthly premium of up to \$101 for coverage.
12. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2018 for \$282/monthly, based on her age and county of residence in 2018.

## **ANALYSIS AND CONCLUSIONS OF LAW**

M.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. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

The Appellant had a three-month grace period, through May 2018, to obtain new coverage after her employer-sponsored coverage terminated at the end of February 2018. Although the Appellant did not obtain new coverage until December 2018, I credit the Appellant's testimony that she thought that she had coverage through her new employer, a medical center, from May through September 2018, when she left her job. The Appellant was not paying a monthly premium during this time, as the coverage was at no cost to her, and the Appellant had not needed to seek medical care, so there was no reason for her to learn that she had no health insurance. In addition, it is not credible that the Appellant would have purposely waived the coverage, when the coverage was at no cost to her. Finally, as the Appellant reasonably believed that she had health insurance coverage up until the end of September, when she left employment with the medical center, the Appellant had another grace period to obtain new coverage. As the Appellant obtained new health insurance coverage within two months, for December 2018, I conclude that it would not serve the purposes of M.G.L c. 111M, § 2, to assess the Appellant any tax penalty for 2018.

Accordingly, the Appellant's six-month penalty for 2018 shall be waived in full.

## **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: PA18-679

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 20, 2019

**Decision Date:** January 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 November 20, 2019. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 4, 2019, for the Appellant to submit additional documentation. On December 9, 2019, the Appellant provided additional documentation through the Health Connector Appeals Unit, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
- Exhibit 2: 5/9/19 Appeal (17 pages)
- Exhibit 3: 9/13/19 Hearing Notice (9 pages)
- Exhibit 4: 3/29/18 Eligibility Approval Notice (10 pages)
- Exhibit 5: 2019 Activity and Contact History from Salesforce (4 pages)
- Exhibit 6: 2019 and 2020 My Enrollments – Health Connector Portal (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2018 was Single with no dependents. The Appellant's federal AGI in 2018 was \$46,806. The Appellant resided in Hampshire County in 2018. The Appellant turned thirty-four years old in 2018. (Exhibit 1)
2. The Appellant appealed from the assessment of a six-month penalty on her 2018 income tax return, checking off "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
3. The Appellant had health insurance coverage in January, February, and March 2018, through MassHealth. The Appellant was unemployed at the beginning of 2018. At the end of February, the Appellant found

new employment. As a result, the Appellant's MassHealth coverage terminated at the end of March 2018. (Appellant's testimony)

4. The Appellant's new employer did not offer health insurance coverage to employees. (Appellant's testimony)
5. On March 29, 2018, the Appellant applied to the Health Connector for health insurance coverage. The Health Connector approved the Appellant for Health Connector Plan with an Advance Premium Tax Credit of \$0.00, based on records indicating that her annual household income was 318.41% of FPL. (Exhibit 4)
6. In response to this 3/29/18 approval notice, the Appellant looked into enrolling in a plan. The lowest-cost coverage that she found cost a monthly premium of about \$300 with an annual deductible of \$2,500. The Appellant decided that this cost was more than she could afford. (Appellant's testimony)
7. In the past ten years, the Appellant has had yearly check-up exams with her primary care doctor and with a specialist, with basically no issues. (Exhibit 2; Appellant's testimony)
8. The Appellant's 2018 monthly expenses for basic necessities included: rent, \$1,350; heat, \$210, phone, \$60; household incidentals; \$85; electricity, \$165; water, \$60; car payment, \$380; car insurance, \$110; and, groceries; \$300, for a total of \$2,720 monthly and \$32,640 for the year. (Exhibit 2; Appellant's testimony)
9. According to Table 2 of the 2018 Schedule HC, the Appellant was not eligible for government-subsidized insurance in 2018, since her AGI for 2018 was more than \$36,180 for a family of one.
10. According to Table 3, Affordability, of the Schedule HC 2018, based on her 2018 AGI and Single tax-filing status, the Appellant could have afforded to pay up to 7.6 percent of her income for health insurance in 2018, which calculates to a monthly premium of up to \$296 for coverage.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2018 for \$253/monthly, based on her age and county of residence in 2018.
12. According to the 2018 Schedule HC, 2018 Minimum Creditable Coverage (MCC) standards included: Doctor visits for preventive care, without a deductible; and, a cap on annual deductibles of \$2,000 for an individual and \$4,000 for a family.
13. On November 13, 2019, the Appellant submitted an application to the Health Connector for 2020 coverage. The Health Connector approved her application with an APTC of \$75/monthly. The Appellant enrolled in a plan with a monthly premium of \$342.47 and a \$2,000 annual deductible, effective on January 1, 2020. (Exhibit 6)
14. On November 19, 2019, the Appellant submitted an application to the Health Connector for 2019 coverage. The Health Connector approved her application with an APTC of \$73/monthly. The Appellant enrolled in a plan with a monthly premium of \$345.11 and a \$2,000 annual deductible, effective on December 1, 2019. (Exhibit 6)

## **ANALYSIS AND CONCLUSIONS OF LAW**

M.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. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had health insurance coverage during the first three months of 2018 and had a grace period through June 2018 to obtain new coverage, at issue here is the Appellant's failure to have coverage during the last six months of 2018.

In this case, the Appellant assumed that she would have had to pay a total of \$6,100 (\$3,600 in monthly premiums plus \$2,500 in deductibles) during 2018 before she would have seen any financial benefit from the health insurance coverage that she qualified for through the Health Connector. Based on this assumption, the

Appellant decided that she could not afford health insurance coverage in 2018. However, I do not find credible the Appellant's testimony that the lowest cost Health Connector Plan that she found included an annual deductible of \$2,500, since 2018 MCC standards limited any annual deductible to no more than \$2,000. In addition, the Appellant's annual check-ups with her PCP and her specialist would not have involved any additional cost had she purchased coverage, as doctor visits for preventive care are covered without any deductible under MCC standards.

Finally, with the respect to the affordability of coverage for the Appellant in 2018, the Affordability Tables indicate that the Appellant could have afforded to pay a monthly premium of up to \$296 for coverage and that MCC coverage was available to her in the private insurance market for a monthly premium of \$253. As the Appellant's 2018 AGI of \$46,806 was substantially more than her \$32,640 cost for basic necessities in 2018, the Appellant has not established that health insurance coverage during the last six months of 2018 was not affordable for her.

Therefore, I conclude that the Appellant has not established that health insurance that provided minimum creditable coverage was not affordable for her in 2018, under 956 CMR 6.08(1).

Accordingly, the Appellant's six-month penalty for 2018 shall not be waived or reduced.

**PENALTY ASSESSED**

Number of Months Appealed:   6   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 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: PA18-683

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** November 20, 2019

**Decision Date:** January 13, 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 November 20, 2019. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)

Exhibit 2: 5/4/19 Appeal (7 pages)

Exhibit 3: 10/17/19 and 9/13/19 Hearing Notices (6 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants' filing status for 2018 was Married Filing Joint with no dependents. The Appellants' federal AGI in 2018 was \$105,952. The Appellants resided in Norfolk County in 2018. The Appellants turned thirty-four years old and twenty-eight years old in 2018. (Exhibit 1)
2. On May 4, 2019, the Appellants appealed from the assessment of a two-month penalty against the Appellant/wife on their 2018 income tax return, checking off "Other," as the basis of their appeal. (Exhibit 2)
3. While present in Massachusetts on a visa from January to June 2018, the Appellant/wife had no legal status as a resident. (Appellant/husband's testimony)
4. The Appellants got married on June 19, 2018. Before then, the Appellant/wife was not earning any income and was not a legal resident. (Exhibit 2; Appellant/husband's testimony)
5. The Appellant/wife got health insurance coverage through her husband's employer-sponsored insurance coverage right after they got married. The coverage was effective June 1, 2018, and through the remainder of 2018. (Exhibit 2; Appellant/husband's testimony)

6. The Appellant/wife did not get her Green card until early 2019. (Appellant/husband's testimony)

**ANALYSIS AND CONCLUSIONS OF LAW**

M.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. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

At issue here is the Appellant/wife's failure to have health insurance coverage in April and May 2018. As the Appellant/wife was present in Massachusetts on a temporary visa through May 2018, the Appellant/wife was not required to have health insurance coverage under the individual mandate during that period. Upon marriage in June 2018, the Appellant obtained health insurance coverage for the rest of the year through her husband's coverage

Accordingly, the Appellant's two-month penalty for 2018 shall be waived entirely.

**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 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: PA18-828

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 12, 2019  
**Decision Date:** January 12, 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 November 12, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit additional documents. Appellant submitted a document which has been marked as Exhibit 5.

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

Exhibit 1: Notice of Hearing sent to Appellant dated October 7, 2019  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018  
Exhibit 3: Notice of Appeal, dated May 15, 2019  
Exhibit 4: Statement in Support of Appeal  
Exhibit 5: Document regarding employer sponsored insurance

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 31 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Hampden County, MA in 2018 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2018 was \$41,853 (Exhibit 2).
4. Appellant's job in 2018 offered employer sponsored health insurance for a cost of \$163 per month, but Appellant did not sign up due to the cost (Exhibit 5 and Testimony of Appellant).
5. Appellant looked at health insurance at the Health Connector, but did not sign up due to the cost (Testimony of Appellant).
6. In 2017, Appellant had the opportunity to train for a new career (Testimony of Appellant).
7. Appellant's new job required Appellant to purchase new tools (Testimony of Appellant).

8. Appellant used credit cards to pay for the tools and Appellant's payment was \$1,000 per month (Testimony of Appellant).
9. Appellant had the following basic monthly expenses: Rent \$600; Utilities \$250; Telephone \$100; Food \$650; Supplies \$250; clothes \$42; car payment \$598; car insurance \$137; gasoline \$60; payment for tools for work \$1000. Appellant's monthly expenses totaled \$3,437 per month (Testimony of Appellant).
10. Appellant did not have health insurance for all of 2018 (Testimony of Appellant and Exhibit 2).
11. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).
12. Appellant filed a hardship appeal on May 15, 2019, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).
13. 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.
14. According to Table 3 of Schedule HC for 2018 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$41,853 could afford to pay \$260 per month for health insurance. According to Table 4, Appellant, age 31 and living in Hampden County, could have purchased private insurance for \$282 per month. Private insurance was not considered affordable for Appellant in 2018.
15. According to Table 2 of Schedule HC for 2018, Appellant, earning more than \$36,180 would not have met the income eligibility guidelines for government subsidized insurance.

## **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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2018, Appellant was considered to be able to afford to pay \$260 per month for health insurance. Employer sponsored health insurance was available to Appellant for a cost of \$163 per month. See Schedule HC for Healthcare, Tables 2 and 3, Exhibit 5 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2018, Appellant's monthly expenses totaled \$3,437. Appellant's monthly income, before taxes was \$3,488. I find that for 2018, the purchase of health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08(1) (e).

I find that the penalty assessed against Appellant for 2018 should be waived in its entirety.

**HOWEVER, Appellant is advised that this decision is based upon the facts as I have found them in 2018 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.**

**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.

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-852

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** November 26, 2019

**Decision Date:** January 13, 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 November 26, 2019. 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 (10-8-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-18-19) (with letter and documents) (5 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 34 during 2018, from Middlesex County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance through the employer for January through March of 2018, but did not have health insurance for the remaining months of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$79,824.00 (Exhibit 2). Appellant's income was earned during the first three months of the year, and Appellant did not earn income during the remaining months of the year. Appellant's employment was terminated in March

2018, and Appellant received the salary for the first three months and also the previous year's bonus, but no other income for the year. (Appellant Testimony, Exhibit 3).

4. Appellant's expenses for food, shelter, clothing and other necessities did not use most of the income. However, given the fact that Appellant did not earn any income after March 2018, Appellant's expenses for food, shelter, clothing and other necessities used all of the income for the months Appellant did not have health insurance. Appellant's expenses for rent, utilities, car insurance, gas for the car, food, and internet totaled approximately \$2,815 per month, or \$33,780 per year (Appellant's testimony, Exhibit 3).
5. Appellant indicated that their employment was terminated Appellant believed because the employer learned they suffered from Major Depressive Disorder. (Appellant's Testimony, Exhibit 3).
6. 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.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$282 for an individual. According to Table 3, Appellant was deemed to afford \$535.
8. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).
9. Appellant's AGI exceeded 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). It is unclear whether Appellant could have qualified based on having no income for the months of April through December 2018.
10. Appellant claimed that they should be granted a waiver based on the grounds that the income was uncertain and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
12. 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 have health insurance for January through March 2018, but did not have health insurance for April through December 2018. They have been assessed a tax penalty for six 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 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 \$79,824.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$535 per month; according to Table 4, Appellant, who was 34 years old in 2018, lived in Middlesex County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$282 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant did not qualify for ConnectorCare.

With regard to the hardship waiver of the penalty, Appellant claimed that they had uncertainty in income, and also that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for food, shelter, clothing, transportation and other necessities did not use most of the income. However, Appellant indicated that income was only earned during the three months of the year when Appellant had health insurance, and Appellant was concerned about having enough income to meet expenses after the employment was terminated. 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: 6      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-853

**Appeal Decision** Appeal Approved in part (penalty reduced to 9 months).

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

**Hearing Date:** November 26, 2019

**Decision Date:** January 15, 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 November 26, 2019. 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 (10-8-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-14-19) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 28 during 2018, filed married filing separately on the tax return with a family size of 1 (Exhibit 2).
2. Appellant lived in Massachusetts from January to October 2018, and moved to Florida for part of October and November and December of 2018
3. Appellant did not have health insurance for the months of 2018 that Appellant was in Massachusetts. (Appellant's testimony, Exhibits 2, and 3).
4. Appellant's Federal Adjusted Gross Income for 2018 was \$63,983.00 (Exhibit 2).

5. Appellant's expenses for food, shelter, clothing and other necessities did not use most of the income. Appellant's expenses for rent, utilities, transportation, food, and other necessities totaled approximately \$3,180 per month, or \$38,160 per year (Appellant's testimony, Exhibit 3).
6. 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.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$249 for an individual or married filing separately with no dependents. According to Table 3, Appellant was deemed to afford \$429.
8. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).
9. Appellant's AGI exceeded 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
10. Appellant had health insurance for 2019 in Florida.
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. (Testimony of Appellant, Exhibit 3).
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 (Exhibit 3).
13. 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, but Appellant was not a resident of Massachusetts for the months of October through December. They have been assessed a tax penalty for twelve months,

but only nine months were spent in Massachusetts. 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 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 \$63,983.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$429 per month; according to Table 4, Appellant, who was 28 years old in 2018, and filed the 2018 Massachusetts taxes as married filing separately with a family size of 1, would have had to pay \$249 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant did not qualify 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. Appellant's expenses for food, shelter, clothing, transportation and other necessities did not use most of the income. However, the penalty should only have been for nine months as Appellant only lived in Massachusetts for nine months of 2018. For these reasons, the waiver of the penalty is approved in part and the penalty is reduced to nine months.

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: 9

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: PA18-854

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** November 26, 2019

**Decision Date:** January 15, 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 November 26, 2019. 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 (10-8-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-16-19) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 29 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 \$26,173.00 (Exhibit 2).
4. Appellant had previously had health insurance through Mass Health, and was not aware that he no longer had the health insurance until he went to the dentist.
5. Appellant's expenses for food, shelter, clothing and other necessities used all of the income. Appellant's expenses for rent, utilities, food, and other necessities totaled approximately \$2,225 per month, or \$26,700 per year (Appellant's testimony, Exhibit 3).

6. Appellant indicated they now have full time employment and would have health insurance through the employer as of January 2020. (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 \$249 for an individual. According to Table 3, Appellant was deemed to afford \$91.
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 may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
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. (Testimony of Appellant, Exhibit 3).
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 (Exhibit 3).
13. 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 \$26,173.00 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 \$91 per month; according to Table 4, Appellant, who was 29 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 \$249 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant may have 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. Appellant's expenses for food, shelter, clothing, transportation 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: PA18-855

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** November 26, 2019

**Decision Date:** January 15, 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**

One of Appellants appeared at the hearing, which was held by telephone, on November 26, 2019. 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 (10-8-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-2-19) (with documents) (9 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 31 and 32 during 2018, from Suffolk County, filed married filing jointly on the tax return with a family size of 3 (Exhibit 2).
2. Appellants did not have health insurance in Massachusetts for January through October 2018, but did have health insurance in Massachusetts for November and December of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants did not live in Massachusetts for January through October of 2018. They lived in Ireland and had health insurance through the employer in Ireland for those months. Appellants then had health insurance through the employer in Massachusetts when they returned for November and December 2018. (Appellant's Testimony, Exhibit 3).

4. Appellants' Federal Adjusted Gross Income for 2018 was \$180,453.00 (Exhibit 2).
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. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$721 for family coverage. According to Table 3, Appellants were deemed to afford \$1,210.
7. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).
8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
9. Appellants claimed that they should be granted a waiver based on the grounds that they were not in Massachusetts during the period of noninsurance. (Testimony of Appellant, Exhibit 3).
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
11. 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.

Appellants did not have health insurance in Massachusetts for January through October of 2018, but did have health insurance in Massachusetts for November and December of 2018. They have been assessed a tax penalty for seven months. 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 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, or if other criteria could provide a waiver should be granted.

Private insurance was 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 \$180,453.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$1,210 per month; according to Table 4, Appellants, who was 31 and 32 years old in 2018, lived in Suffolk County and filed the 2018 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$721 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they were not living in Massachusetts during the period of noninsurance. Appellants were living and working in Ireland for January through October of 2018, and, therefore, were not required to have health insurance in Massachusetts for those months. They had health coverage through the employer while in Ireland, and also had health insurance through the employer in Massachusetts once they returned in November of 2018. For these reasons, the penalty is waived.

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: 7/7    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.

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-857

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** November 26, 2019

**Decision Date:** January 15, 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 November 26, 2019. 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 (10-8-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-6-19) (3 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 22 during 2018, from Plymouth 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 \$28,806.00 (Exhibit 2).
4. Appellant believed that health insurance was not affordable, and did not investigate health insurance through the Health Connector.
5. Appellant's expenses for food, shelter, clothing and other necessities used most of the income. Appellant's expenses for rent, utilities, food, and other necessities totaled approximately \$2,200 per month, or \$26,400 per year (Appellant's testimony, Exhibit 3).

6. Appellant indicated they still did not have health insurance. (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 \$249 for an individual. According to Table 3, Appellant was deemed to afford \$100.
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 may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
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. (Testimony of Appellant, Exhibit 3).
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 (Exhibit 3).
13. 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 \$28,806.00 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 \$100 per month; according to Table 4, Appellant, who was 22 years old in 2018, lived in Plymouth County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$249 per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. Appellant may have 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. Appellant's expenses for food, shelter, clothing, transportation and other necessities used most 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: PA18-868

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 22, 2019  
**Decision Date:** January 17, 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 November 22, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated October 11, 2019  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018  
Exhibit 3: Notice of Appeal, dated May 25, 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 59 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Worcester County, MA in 2018 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2018 was \$34,753 (Exhibit 2).
4. During 2018, employer sponsored health insurance was not available (Testimony of Appellant).
5. Appellant struggled to pay for basic expenses in 2018 (Testimony of Appellant).
6. Appellant lived with a family member in order to save on expenses (Testimony of Appellant).
7. Appellant had many car issues in 2018 (Testimony of Appellant).
8. Appellant spent \$6,600 for the car engine and \$5,000 for other car maintenance. Appellant paid for the car expenses by credit card and had about \$8,000 in credit card debt (Testimony of Appellant).
9. Appellant struggled to pay for basic expenses (Testimony of Appellant).
10. Appellant did not have health insurance for all of 2018 (Testimony of Appellant and Exhibit 2).
11. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).

12. Appellant filed a hardship appeal on May 25, 2019 (Exhibit 3).
13. 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.
14. According to Table 3 of Schedule HC for 2018 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$34,753 could afford to pay \$145 per month for health insurance. According to Table 4, Appellant, age 59 and living in Worcester County, could have purchased private insurance for \$423 per month. Private insurance was not considered affordable for Appellant in 2018.
15. According to Table 2 of Schedule HC for 2018, Appellant, earning less than \$36,180 would have met the income eligibility guidelines for government subsidized insurance.
16. Appellant was enrolled in health insurance beginning in 2019 (Testimony of Appellant).

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

During 2018, Appellant was considered to be income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Table 2 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant struggled financially in 2018. Appellant incurred over \$11,000 for car expenses which Appellant paid for by credit card. I find that for 2018, the purchase of health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08(1) (e).

I find that the penalty assessed against Appellant for 2018 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-869

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 22, 2019  
**Decision Date:** January 27, 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 November 22, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated October 11, 2019  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018  
Exhibit 3: Notice of Appeal, dated May 24, 2019  
Exhibit 4: Statement in Support of Appeal

### FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Berkshire County, MA in 2018 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2018 was \$34,805 (Exhibit 2).
4. Appellant's job in 2018 did not offer employer sponsored health insurance (Testimony of Appellant).
5. Appellant lived in Virginia in early 2018 (Testimony of Appellant).  
Appellant accepted a job and found a residence in Massachusetts in April 2018 (Testimony of Appellant).
6. Appellant still had a lease and obligations for utilities in Virginia after the move to Massachusetts (Testimony of Appellant).
7. Appellant went back and forth between the two states, and incurred expenses in Virginia until November 2018 (Testimony of Appellant).
8. Appellant had the following basic monthly expenses in Massachusetts: Rent \$1,050; Utilities \$330; Food \$400; supplies \$70; clothes \$50; car payment \$300; car insurance \$90; gasoline \$150. Appellant's monthly expenses totaled \$2,440 per month (Testimony of Appellant).

9. Appellant did not have health insurance for all of 2018 (Testimony of Appellant and Exhibit 2).
10. Appellant was assessed a penalty for twelve months for 2018 (Exhibit 2).
11. Appellant filed a hardship appeal on May 24, 2019 (Exhibit 3).
12. 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.
13. According to Table 3 of Schedule HC for 2018 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$34,805 could afford to pay \$145 per month for health insurance. According to Table 4, Appellant, age 31 and living in Berkshire County, could have purchased private insurance for \$253 per month. Private insurance was not considered affordable for Appellant in 2018.
14. According to Table 2 of Schedule HC for 2018, Appellant, earning less than \$36,180 would have met the income eligibility guidelines for government subsidized insurance.

## **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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Employer sponsored health insurance was not available to Appellant in 2018. Appellant, earning less than \$36,180 would have been income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Tables 2 and 3, and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant lived in Virginia in early 2018. Appellant began a job in Massachusetts in April, 2018. Appellant’s obligation to obtain health insurance would have begun in April, and Appellant would have gotten a three month grace period to obtain the insurance so that Appellant would have been subject to a penalty from August through December. However, Appellant had a transition period when Appellant was living in both Virginia and Massachusetts until November 2018. Due to the transition, Appellant had extra expenses. Therefore, I find that for 2018, the purchase of health insurance would have caused Appellant a serious deprivation of food, shelter,

clothing or other necessities. See Schedule HC Healthcare, 956 CMR 6.08(1) (e) and Testimony of Appellant, which I find to be credible.

I find that the penalty assessed against Appellant for 2018 should be waived in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

**ADDENDUM:**

**Appellant is advised that this decision is based upon the facts as I have found them in 2018 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-873

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 18, 2019  
**Decision Date:** January 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 November 18, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated October 16, 2019  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018  
Exhibit 3: Notice of Appeal, dated May 18, 2019  
Exhibit 4: Statement in Support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 53 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Norfolk County, MA in 2018 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2018 was \$23,390 (Exhibit 2).
4. Appellant worked at a job that did not provide Appellant with steady hours and Appellant was not eligible for employer sponsored health insurance (Testimony of Appellant).
5. Appellant wanted to work full time, but was only scheduled for part time hours (Testimony of Appellant).
6. Appellant had believed that Appellant was covered by government subsidized health insurance for all of 2018 (Testimony of Appellant).
7. Appellant was covered by government subsidized health insurance from February through June 2018 (Exhibit 2).
8. Appellant had a serious medical issue in September 2018 and Appellant then learned that Appellant's government subsidized health insurance had ended in July 2018 (Testimony of Appellant).

9. In 2017, Appellant moved in with Appellant's aging parents in order to save on expenses (Testimony of Appellant).
10. Appellant helped to provide care for Appellant's aging parents (Testimony of Appellant).
11. Appellant struggled to pay for basic expenses in 2018 (Testimony of Appellant).
12. Appellant was assessed a penalty for three months for 2018 (Exhibit 2).
13. Appellant filed a hardship appeal on May 18, 2019, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).
14. 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.
15. According to Table 3 of Schedule HC for 2018 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$23,390 could afford to pay \$57 per month for health insurance. According to Table 4, Appellant, age 53 and living in Norfolk County, could have purchased private insurance for \$411 per month. Private insurance was not considered affordable for Appellant in 2018.
16. According to Table 2 of Schedule HC for 2018, Appellant, earning less than \$36,180 would have met the income eligibility guidelines for government subsidized insurance.

#### **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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for three months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2018, Appellant was considered to be income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Table 2 and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was unable to get full time hours at work in 2018. Appellant had moved in with family to save on expenses and to help care for them. Appellant struggled to pay basic expenses. Appellant also had been unaware that the government subsidized health insurance had ended. I find that for 2018, the purchase of health

insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08(1) (e).

I find that the penalty assessed against Appellant for 2018 should be waived in its entirety.

**HOWEVER, Appellant is advised that this decision is based upon the facts as I have found them in 2018 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.**

**PENALTY ASSESSED**

Number of Months Appealed: 3

Number of Months Assessed: 0

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-876

**Appeal Decision:** Penalty Overturned in Part  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 18, 2019  
**Decision Date:** January 6, 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 November 18, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2018
- Exhibit 3: Notice of Appeal, dated May 17, 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 27 years old in 2018. Appellant filed a Massachusetts 2018 tax return as single with no dependents (Exhibit 2).
2. Appellant resided in Suffolk County, MA in 2018 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2018 of \$53,087 (Exhibit 2).
4. In 2017, Appellant had been covered by health insurance through a parent's plan (Testimony of Appellant).
5. In 2018, Appellant had employer sponsored health insurance available at a cost of \$300 per month (Testimony of Appellant).
6. Appellant did not apply for the employer sponsored health insurance due to the cost (Testimony of Appellant).
7. Appellant's income in 2018 was based on tips and at times, Appellant's income was not steady (Testimony of Appellant).
8. Appellant did not have insurance for twelve months in 2018 (Testimony of Appellant and Exhibit 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 a person filing as single with no dependents claimed and with an adjusted gross income of \$53,087 could afford to pay \$356 per month for private insurance. According to Table 4, Appellant, aged 27 and living in Suffolk County could have purchased private insurance for \$249 per month.

11. Both private insurance and employer sponsored insurance were considered to be affordable for Appellant in 2018 (Schedule HC for 2018).

12. Appellant had the following monthly expenses for basic necessities during 2018: rent \$900; utilities \$200; telephone \$50; food \$667; supplied \$70; clothing \$42; public transportation \$90; student loans \$66. The monthly expenses for basic necessities totaled \$2,085 (Testimony of Appellant).

13. Appellant has been assessed a penalty for twelve months for 2018 (Exhibit 2).

14. Appellant filed an appeal on May 17, 2019 appealing the assessment of the penalty. Appellant claimed that the expense of purchasing health insurance would have caused Appellant a serious deprivation of food, shelter and clothing (Exhibit 3).

15. At the time of the hearing, Appellant was looking for health insurance from the Health Connector (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2018, Appellant could afford to pay \$356 per month for health insurance. Employer sponsored health insurance was available at a cost of \$300 per month. Private insurance would have cost \$249 per month. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2018, Appellant’s expenses for basic necessities were \$2,085 per month. Appellant’s income before taxes was \$4,424 per month. I find that the purchase of health insurance would not have caused Appellant to experience a serious deprivation of basic necessities. See Exhibits 2 and 3 and Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e). However, since Appellant had been previously covered by health insurance and had concerns about not having a steady income, I will assess a partial penalty.

I find the penalty assessed against Appellant for 2018 should be upheld in part and waived in part.

**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 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.

**ADDENDUM**

**Appellant is advised that this decision is based upon the facts as I have found them in 2018 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-877

**Appeal Decision:** Penalty Overturned  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** November 18, 2019  
**Decision Date:** January 15, 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 November 18, 2019. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2018
- Exhibit 3: Notice of Appeal
- Exhibit 4: Final Appeal Decision for 2017

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 29 years old in 2018. Appellant filed a Massachusetts 2018 tax return as single with no dependents (Exhibit 2).
2. Appellant resided in Bristol County, MA in 2018 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2018 of \$43,161 (Exhibit 2).
4. In 2018, Appellant had employer sponsored health insurance available at a cost of \$140 per month (Testimony of Appellant).
5. Appellant did not apply for the employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant lived with Appellant's fiancée and the fiancée's child (Testimony of Appellant).
7. Appellant provided financial help to fiancée since fiancée was a student (Testimony of Appellant).
8. Appellant and fiancée were married in 2019 (Testimony of Appellant).
9. Appellant did not have insurance for twelve months in 2018 (Testimony of Appellant and Exhibit 2).
10. 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.

11. According to Table 3 of Schedule HC for 2018 a person filing as single with no dependents claimed and with an adjusted gross income of \$43,161 could afford to pay \$273 per month for private insurance. According to Table 4, Appellant, aged 29 and living in Bristol County could have purchased private insurance for \$249 per month.

12. Both private insurance and employer sponsored insurance were considered to be affordable for Appellant in 2018 (Schedule HC for 2018).

13. Appellant had the following monthly expenses for basic necessities during 2018: rent \$925; utilities \$350; telephone \$140; food \$433; supplies \$50; clothing \$50; car payment \$300; car insurance \$200; gasoline \$110. The monthly expenses for basic necessities totaled \$2,558 (Testimony of Appellant).

14. Appellant has been assessed a penalty for twelve months for 2018 (Exhibit 2).

15. Appellant filed an appeal, appealing the assessment of the penalty. Appellant claimed that the expense of purchasing health insurance would have caused Appellant a serious deprivation of food, shelter and clothing (Exhibit 3).

16. Appellant began health insurance coverage in January 2019 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L.c. 111M, sec. 2(b) and for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L.c. 111M and M.G.L.c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2018, Appellant could afford to pay \$273 per month for health insurance. Employer sponsored health insurance was available at a cost of \$140 per month. Private insurance would have cost \$249 per month. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2018, Appellant’s expenses for basic necessities were \$2,558 per month. Appellant’s income before taxes was \$3,597 per month. According to Schedule HC for Healthcare, Appellant could afford to purchase available health insurance. However, Appellant was part of a household and was helping to support a fiancée and child. Appellant married in 2019 and began health insurance. I find that the purchase of health insurance would have caused Appellant to experience a serious deprivation of basic necessities. See Exhibits 2 and 3 and Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find the penalty assessed against Appellant for 2018 should be waived.

**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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-896

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** December 3, 2019

**Decision Date:** January 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**

Appellant appeared at the hearing, which was held by telephone, on December 3, 2019. 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 (10-25-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-29-19) (with letter and documents) (10 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 62 during 2018, from Hampden County, filed single on the tax return with a family size of 2 (one dependent) (Exhibit 2).
2. Appellant did have health insurance for September through December of 2018, but did not have health insurance for the remaining months of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$73,893.00 (Exhibit 2).
4. Appellant's divorce decree provided that Appellant's ex-spouse was to pay for health insurance for the Appellant and their child. In late 2017, Appellant's ex-spouse indicated that they would no longer pay for the child, even though required to do so, and litigation ensued. By the time it was

ordered by the Court, Appellant was not able to reinstate insurance, but did obtain insurance again as of September 2018 (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, if family insurance was used, but could afford individual coverage. According to Table 4, the health insurance would cost \$423 for an individual, and \$1,003 for a family (Appellant and Appellant's child). According to Table 3, Appellant was deemed to afford \$495.
7. Private insurance was not affordable for the Appellant in 2018 for Appellant and the child (Schedule HC for 2018).
8. Appellant's AGI exceeded 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
9. Appellant claimed that they should be granted a waiver based on the grounds that other circumstances applied in that Appellant's ex-spouse was supposed to have provided the insurance and did not do so. (Testimony of Appellant, Exhibit 3).
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 (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 have health insurance for September through December of 2018, but did not have health insurance for January through August of 2018. They have been assessed a tax penalty for five 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 if insurance for Appellant and Appellant's child is considered, but was affordable for individual coverage. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$73,893.00 was deemed to have been able to afford individual health insurance on the private market, but not family coverage. According to Table 3, Appellant could have afforded to pay \$495 per month; according to Table 4, Appellant, who was 62 years old in 2018, lived in Hampden County and filed the 2018 Massachusetts taxes as single with a family size of 2, would have had to pay \$423 for individual coverage, and \$1,003 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. Appellant did not qualify for ConnectorCare.

With regard to the hardship waiver of the penalty, Appellant claimed that they had health insurance based on a divorce decree requiring Appellant's ex-spouse to pay for coverage for Appellant and Appellant's child. When Appellant's ex-spouse stopped paying, Appellant had to pursue litigation, and by the time the Court ordered the ex-spouse to pay for the insurance, there was a gap in coverage. 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: 5      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA18-899

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** December 3, 2019

**Decision Date:** January 22, 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 December 3, 2019. 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 (10-25-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (6-3-19) (3 pages); and
- Exhibit 4: Final Appeal Decision for TY2016 (1-31-18) (5 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 48 during 2018, from Norfolk 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 \$33,669.00 (Exhibit 2).
4. Appellant's employment was seasonal and freelance, and was not guaranteed or necessarily steady. There was also a one to three months delay in receiving pay for the work. (Appellant's testimony, Exhibit 3).

5. Appellant had looked into obtaining health insurance through the Health Connector, but believed they could not afford the premiums (Appellant's Testimony).
6. Appellant's expenses for food, shelter, clothing, and other necessities used most of the income. The expenses were approximately \$1,700.00 per month, or \$20,400 per year.
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 \$354 for an individual. According to Table 3, Appellant was deemed to afford \$140.
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 may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
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 (Testimony of Appellant, Exhibit 3).
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 (Exhibit 3).
13. 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 \$33,669.00 was deemed not to have been able to afford individual health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$140 per month; according to Table 4, Appellant, who was 48 years old in 2018, lived in Norfolk County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$354 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 may have 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. Appellant's income for these expenses used most of the income. In addition, Appellant's income was sporadic and uncertain. 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: PA18-903

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** December 3, 2019

**Decision Date:** January 22, 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 December 3, 2019. 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 (10-25-19) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-4-19) (with letter and document) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 49 during 2018, from Bristol County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for March through June of 2018 through the employer, but was laid off and thereafter worked part-time and did not have health insurance for the remaining months of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's ex-spouse had covered the health insurance until December 2017, and Appellant did not enroll in the employer's health insurance until March 2018 due to oversight (Appellant's testimony).
4. Appellant's Federal Adjusted Gross Income for 2018 was \$70,261.00 (Exhibit 2).

5. Appellant's income was reduced after they were laid off, and Appellant believed they could not afford health insurance. (Appellant's testimony, Exhibit 3).
6. In addition, Appellant's boyfriend died in August 2018, causing additional expenses.
7. Appellant's expenses for food, shelter, clothing, and other necessities used most of the income. The expenses were approximately \$5,144.00 per month, or \$61,728.00 per year.
8. 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.
9. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$354 for an individual. According to Table 3, Appellant was deemed to afford \$471.
10. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).
11. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
12. 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).
13. Appellant did 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 (Exhibit 3).
14. 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 have health insurance for March through June of 2018, but did not have it for the remaining months of 2018. They have been assessed a tax penalty for three 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 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 \$70,261.00 was deemed to have been able to afford individual health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$471 per month; according to Table 4, Appellant, who was 49 years old in 2018, lived in Bristol County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$354 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 did not qualify 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. In addition, the death of a partner caused increased expenses. Appellant's expenses for food, shelter, clothing and other necessities used most of the income. In addition, the death of Appellant's partner caused significant increased expenses. 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: 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

**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: PA18-1000

**Appeal Decision:** Appeal Allowed

**Hearing Issue:** Appeal of a 2018 Tax Penalty

**Hearing Date:** December 18, 2019

**Decision Date:** January 17, 2020

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 Mass Code Regs. 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 Mass Code Regs 6.07. Appellant, a Massachusetts resident during 2018, appeals the assessment of a 2018 tax penalty for failure to comply with the individual health insurance mandate of Mass. Gen. Laws ch. 111M, § 2.

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on December 18, 2019. The hearing record consists of Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Appeal dated July 6, 2019;

Exhibit 2: Notice of Hearing dated October 31, 2019; and

Exhibit 3: Appeal Case Information print-out dated October 31, 2019 generated from Appellant's 2018 Massachusetts Schedule HC.

### **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant is a single person who was a resident of Massachusetts during 2018. Testimony; Exhibit 3.

2. Appellant had health insurance coverage through the Health Connector in 2017 which continued into the months of January and February 2018. Testimony; Exhibits 1 and 3.
3. Appellant started a new job in early 2018 with an employer that offered health insurance coverage, and Appellant completed paperwork to enroll in the employer-sponsored coverage upon hire. Testimony; Exhibit 1.
4. Appellant was informed by Appellant's supervisor that the employee share of the premium for coverage was \$50.00 weekly and that the enrollment papers had been sent to Human Resources. Testimony. The supervisor also provided Appellant with a brochure from the Fallon Health Plan which explained Appellant's benefits. *Id.*
5. Appellant's new employer used an electronic payroll system, but Appellant was pre-occupied with learning the new job and did not check pay statements online to verify that the health insurance premiums were being deducted. Testimony.
6. Appellant did not use any medical services in 2018 and discovered in April 2019 when filing a 2018 tax return that there was no Massachusetts Form 1099-HC from Fallon for 2018.
7. By that time, the supervisor who had told Appellant that the enrollment paperwork had been submitted to Human Resources had been terminated, and Appellant went to the new supervisor to inquire about the status of Appellant's health insurance coverage. Testimony. The new supervisor confirmed that Appellant had never been enrolled, and Appellant's enrollment papers were discovered in the former supervisor's desk. *Id.*
8. Appellant subsequently left that job and found new employment and health insurance coverage. Testimony.
9. Appellant filed a Massachusetts Resident Income Tax Return for 2018 in which Appellant reported a Federal Adjusted Gross Income of \$29,303.00. Exhibit 3. The Schedule HC filed with the return reported no health insurance coverage for Appellant that met minimum creditable coverage ("MCC") requirements for the months of March through December. *Id.*
10. Based on Appellant's 2018 Schedule HC, the Department of Revenue ("DOR") assessed a seven-month tax penalty on Appellant. Exhibit 3.

In addition to the foregoing facts, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/files/documents/2019/01/28/dor-2018-inc-sch-hc-inst.pdf>, and in particular Tables 1 – 6 which, as will be discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Care Reform Act of 2006 (the “HCRA”) 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). A lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. Mass. Gen. Laws ch. 111M, § 2. This provision, as implemented by 956 Mass. Code Regs., interprets the 63-day gap in coverage to be three months. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at [www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf](http://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). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months.

Individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”), which was set at \$18,090.00 for family of one in 2018, are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 18-2, available at <https://www.mass.gov/technical-information-release/tir-18-2-individual-mandate-penalties-for-tax-year-2018>. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. Mass. Gen. Laws ch. 111M, § 2. This provision, as implemented by 956 Mass. Code Regs., interprets the 63-day gap in coverage to be three months. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at [www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf](http://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). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. By application of this policy, Appellant’s ten months of uninsured status resulted in a seven-month tax penalty.

Since Appellant’s reported household income of \$29,303.00 in 2018 was more than 150 percent of the applicable FPL (\$18,090.00 for family of one), which makes Appellant subject to the individual mandate tax penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to Appellant 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’s 2018 filing status was single with no dependents. Exhibit 3. 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 4.2 percent of the reported Federal AGI or **\$102.56** monthly ( $\$29,221.00 \times 4.2\% = \$1,230.73 \div 12 = \$102.56$ ) for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Appellant was eligible for employer-sponsored health insurance in 2018 which would have cost more than **\$216.67** monthly based on premiums of \$50.00 per week. Therefore, even had Appellant’s attempt to enroll in employer-sponsored

coverage not been frustrated by the inaction of a supervisor, such insurance was not affordable. Private health insurance would have cost **\$249.00** monthly for individual coverage based on Appellant's age range (0-30) and county of residence (Worcester) which also is much more than the **\$102.56** monthly that is considered affordable under the Schedule. *Id.* at Table 4. Since Appellant was eligible for employer-sponsored health insurance, Appellant would not have been considered eligible for government-subsidized health insurance as long as the employer-sponsored coverage was considered affordable. 45 C.F.R. § 155.305(f)(1)(ii)(B) 26 CFR 1.36B-2(a)(2) and (c). 956 Mass. Code Regs 12.08(1). Affordability for purposes of determining eligibility for enrollment in a government-subsidized plan is governed by Federal law and regulation which prescribe a different formula from that used by the Health Connector's board in setting the annual affordability tables pursuant to the HCRA. Under the Federal rules, an employer-sponsored plan in 2018 was considered affordable as long as the cost to the employee for individual coverage did not exceed 9.56 percent of an employee's monthly household income. See Overview of Health Insurance Marketplaces, available at [https://betterhealthconnector.com/wp-content/uploads/MAHC\\_Employer-Notification-Form-Mktpl\\_ENG\\_2019.pdf](https://betterhealthconnector.com/wp-content/uploads/MAHC_Employer-Notification-Form-Mktpl_ENG_2019.pdf). Appellant's 2018 reported Federal AGI provided \$2,441.92 in monthly household income, and 9.56 percent of that income is \$233.45 monthly. As set forth above, the employer-sponsored Fallon coverage for which Appellant was eligible in 2018 would have cost **\$216.67** monthly and, therefore, would have been deemed affordable which, in turn, made Appellant ineligible for government-subsidized health insurance. Therefore, affordable health insurance coverage was not available to Appellant in 2018. Moreover, even assuming that Appellant was eligible for affordable health insurance coverage, he was effectively precluded from enrolling in such coverage due to the supervisor's failure, without Appellant's knowledge, to deliver Appellant's enrollment papers to Human Resources.

Since affordable health insurance coverage was not available to Appellant between March and December 2018, he is not liable for a tax penalty

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

#### **PENALTY ASSESSED**

Number of Months Appealed: 7

Number of Months Assessed: 0

#### **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: PA18-1001

**Appeal Decision:** Appeal Allowed in part and Penalty Modified

**Hearing Issue:** Appeal of a 2018 Tax Penalty

**Hearing Date:** December 18, 2019

**Decision Date:** January 21, 2020

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 Mass Code Regs. 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 Mass Code Regs 6.07. Appellant, a Massachusetts resident during 2018, appeals the assessment of a 2018 tax penalty for failure to comply with the individual health insurance mandate of Mass. Gen. Laws ch. 111M, § 2.

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on December 18, 2019. The hearing record consists of Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Appeal dated July 4, 2019;

Exhibit 2A: Notice of Hearing dated October 31, 2019;

Exhibit 2B: Notice of Hearing dated October 31, 2019 (sent to Appellant's new address);

Exhibit 3: Appeal Case Information print-out dated October 31, 2019 generated from Appellant's 2018 Massachusetts Schedule HC;

Exhibit 4: Appellant's response to Open Record Request.<sup>1</sup>

### **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

<sup>1</sup> The record was held open after the December 18, 2019 hearing for Appellant to documentation of any health insurance coverage in 2019. Appellant responded by email dated January 2, 2020 that Appellant's previous insurance coverage lapsed before 2018.

1. Appellant is a single person who was a resident of Massachusetts during 2018. Testimony; Exhibit 3.
2. Appellant was self-employed prior to May 2018 and had health insurance coverage through the Harvard Pilgrim PPO Plan which coverage lapsed prior to the start of 2018.
3. Appellant started a new job at the beginning of May 2018 with an employer who offered health insurance coverage through Blue Cross Blue Shield of Massachusetts, and Appellant completed paperwork to enroll in the employer-sponsored coverage upon hire. Testimony; Exhibit 1 at 3-7. E-mail correspondence submitted with the appeal documents that Appellant timely returned the health plan enrollment forms to the employer's Human Resources Department. *Id.* at 4-7.
4. Appellant filed a Massachusetts Resident Income Tax Return for 2018 in which Appellant reported a Federal Adjusted Gross Income of \$58,454.00. Exhibit 3.
5. The Department of Revenue ("DOR") assessed a 12-month tax penalty on Appellant's 2018 Massachusetts return based on a determination that Appellant did not have health insurance coverage meeting minimum creditable coverage standards for any month during 2018 . Exhibit 3.
6. Appellant believed that there was coverage under the employer-sponsored Blue Cross Blue Shield plan for which Appellant had delivered enrollment forms to the employer upon commencing employment in early May 2018. Testimony.
7. Appellant received a notice from DOR in June 2019 that Appellant's 2018 Schedule HC had been completed incorrectly as there was no Form 1099-HC confirming health insurance coverage in 2018.
8. Appellant then contacted the employer who investigated and informed Appellant that the enrollment had not been received by Blue Cross Blue Shield and that Appellant had not in fact been enrolled for 2018. Testimony; Exhibit 1 at 3.
9. Appellant then successfully enrolled for the remainder of 2019 and filed the instant appeal of the tax penalty. Testimony; Exhibit 1 at 3.

In addition to the foregoing facts, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/files/documents/2019/01/28/dor-2018-inc-sch-hc-inst.pdf>, and in particular Tables 1 – 6 which, as will be discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Care Reform Act of 2006 (the “HCRA”) 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). A lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. Mass. Gen. Laws ch. 111M, § 2. This provision, as implemented by 956 Mass. Code Regs., interprets the 63-day gap in coverage to be three months. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at [www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf](http://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). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months.

Individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”), which was set at \$18,090.00 for family of one in 2018, are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 18-2, available at <https://www.mass.gov/technical-information-release/tir-18-2-individual-mandate-penalties-for-tax-year-2018>. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. Mass. Gen. Laws ch. 111M, § 2. This provision, as implemented by 956 Mass. Code Regs., interprets the 63-day gap in coverage to be three months. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at [www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf](http://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). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months.

Since Appellant’s reported household income of \$58,454.00 in 2018 was more than 150 percent of the applicable FPL (\$18,090.00 for family of one), which makes Appellant subject to the individual mandate tax penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to Appellant 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 does not claim that the employer-sponsored health insurance available beginning in May was unaffordable, but rather that Appellant was effectively precluded from enrolling in such coverage due to the new employer’s apparent failure, without Appellant’s knowledge, to properly process that enrollment forms that Appellant had completed and turned in. Appellant very credibly testified concerning the circumstances which led to the failed attempt to enroll in the employer-sponsored Blue Cross Blue Shield coverage, and Appellant’s testimony is corroborated by email correspondence between Appellant and the employer. Based on this credible and corroborated evidence, I find that but for the employer’s apparent error, which occurred without the fault or knowledge of Appellant,

Appellant would have been enrolled in health insurance coverage for the months of May through December 2018. Under these particular circumstances, I find that no tax penalty should be assessed for the months of May through December 2018. 956 Mass.Code Regs. 6.08(3).

Appellant was uninsured for the months of January through April due to the lapse of the Harvard Pilgrim PPO Plan coverage that Appellant had in 2017. As Appellant has neither asserted nor demonstrated any valid ground to excuse this four-month period of uninsurance, I find that Appellant is subject to a four-month penalty which is reduced to one month by the lapse-in-coverage policy.

Accordingly, Appellant's appeal is **ALLOWED in part** and **DENIED in part**, and the 2018 penalty assessed is **MODIFIED**.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 1

**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: PA18-1002

**Appeal Decision:** Appeal Allowed

**Hearing Issue:** Appeal of a 2018 Tax Penalty

**Hearing Date:** December 18, 2019

**Decision Date:** January 22, 2020

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 Mass Code Regs. 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 Mass Code Regs 6.07. Appellants, a married couple who were Massachusetts residents during 2018, appeal the assessment of a 2018 tax penalty for failure to comply with the individual health insurance mandate of Mass. Gen. Laws ch. 111M, § 2.

### **HEARING RECORD**

Appellant Husband appeared at the hearing which was held by telephone on December 18, 2019. The hearing record consists of Appellant Husband's testimony and the following documents which were admitted into evidence:

Exhibit 1: Appeal dated July 10, 2019;

Exhibit 2: Notice of Hearing dated October 31, 2019; and

Exhibit 3: Appeal Case Information print-out dated October 31, 2019 generated from Appellant's 2018 Massachusetts Schedule HC.

### **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellants are a married couple who were residents of Massachusetts during 2018. Testimony; Exhibit 3. Appellants have two dependent children. *Id.*

2. Appellants had employer-sponsored health insurance coverage which ended on February 28, 2018 after Appellant Husband was laid off. Testimony; Exhibit 1 at 3. Exhibit 3.
3. Because of the layoff, Appellant's income after January consisted of unemployment benefits at the rate of \$717.00 weekly (\$2,868.00 monthly) which represented a decrease of approximately 50 percent from Appellants' former base monthly income of \$5,533.00. Testimony; Exhibit 1 at 3.
4. Appellants enrolled their minor children in MassHealth coverage but declined to purchase health insurance coverage for themselves because the cost was not affordable on their reduced income. Testimony; Exhibit 1 at 3.
5. Appellant Husband secured another job in October 2018, and Appellants' were enrolled in employer-sponsored health insurance coverage for the months of October through December 2018. Testimony; Exhibits 1 and 3.
6. Appellants filed a Massachusetts Resident Income Tax Return for 2018 jointly as a married couple in which Appellants reported a Federal Adjusted Gross Income of \$97,224.00. Exhibit 3. The Schedule HC filed with the return reported no health insurance coverage for Appellant that met minimum creditable coverage ("MCC") requirements for the months of March through September. *Id.*
7. Based on Appellant's 2018 Schedule HC, the Department of Revenue ("DOR") assessed a four-month tax penalty on each Appellant. Exhibit 3.
8. Appellants' loss of income in 2018 caused significant financial stress resulting in missed mortgage, automobile loan and utility payments and the receipt of multiple electric, gas and water shut-off notices. Exhibit 1 at 11-19.

In addition to the foregoing facts, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/files/documents/2019/01/28/dor-2018-inc-sch-hc-inst.pdf>, and in particular Tables 1 – 6 which, as will be discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Care Reform Act of 2006 (the "HCRA") 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).

Individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”), which was set at \$36,900.00 for family of four in 2018, are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 18-2, available at <https://www.mass.gov/technical-information-release/tir-18-2-individual-mandate-penalties-for-tax-year-2018>. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. Mass. Gen. Laws ch. 111M, § 2. This provision, as implemented by 956 Mass. Code Regs., interprets the 63-day gap in coverage to be three months. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at [www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf](http://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). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. By application of this policy, Appellants’ seven-month period of uninsurance in 2018 resulted in a four-month tax penalty.

Since Appellants’ reported household income of \$97,224.00 in 2018 was more than 150 percent of the applicable FPL (\$36,900.00), which subjects Appellants to the individual mandate tax penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to Appellant 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*.

Appellants’ 2018 filing status was married with two dependents. Exhibit 3. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellants could afford to pay 8.05 percent of the reported Federal AGI or **\$652.21** monthly ( $\$97,224.00 \times .0805 = \$7,826.23 \div 12 = \$652.21$ ) for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Appellants were not eligible for employer-sponsored health insurance in 2018 from March through September, but their reduced income of 2,868.00 monthly in March through September would have made them eligible for government-subsidized health insurance. *Id.* at Table 2. Private health insurance would have been unaffordable at \$846.00 per month based on Appellant Husband’s age (55+) and county of residence (Bristol). *Id.* at Table 4.

Since Appellants did not obtain affordable government-subsidized health insurance coverage in 2018, they are subject to the HCRA’s tax penalty unless they demonstrates a qualifying hardship. 956 Mass. Code Regs. 6.08. To qualify for a waiver or reduction of a tax penalty based on hardship, an Appellant “must establish that, based on all his circumstances, health insurance that provided minimum creditable coverage was not affordable to him because he experienced a hardship.” 956 Mass. Code Regs. 6.08(1).

Appellant Husband credibly testified that the loss of job and income caused the family to experience serious financial stress which is well-documented by multiple utility shut-off notices. Receipt of a shut-off notice for an essential utility (defined as gas, electric, oil, water or telephone) is specifically

recognized in the regulations as indicative of hardship. 956 Mass. Code Regs. 6.08(1)(b). Based on this record, I find that Appellants have established that they were under a qualifying hardship in 2018.

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

**PENALTY ASSESSED**

Number of Months Appealed: 8

Number of Months Assessed: 0

**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: PA18-1003

**Appeal Decision:** Appeal Allowed

**Hearing Issue:** Appeal of a 2018 Tax Penalty

**Hearing Date:** December 18, 2019

**Decision Date:** January 23, 2020

### **AUTHORITY**

This hearing was conducted pursuant to the Massachusetts General Laws, Chapter 111M, Chapter 176Q, Chapter 30A and 801 Mass Code Regs. 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 Mass Code Regs 6.07. Appellant, a married person who was a Massachusetts resident during 2018, appeal the assessment of a 2018 tax penalty for failure to comply with the individual health insurance mandate of Mass. Gen. Laws ch. 111M, § 2.

### **HEARING RECORD**

Appellant appeared at the hearing which was held by telephone on December 18, 2019. The hearing record consists of Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Appeal dated July 11, 2019;

Exhibit 2: Notice of Hearing dated October 31, 2019; and

Exhibit 3: Appeal Case Information print-out dated October 31, 2019 generated from Appellant's 2018 Massachusetts Schedule HC.

### **FINDINGS OF FACT**

Based on the testimony and documentary evidence contained in the record and reasonable inferences drawn from the evidence, I find that the following facts are established by a preponderance of the evidence:

1. Appellant and Appellant's spouse are a married couple who were residents of Massachusetts during 2018. Testimony; Exhibits 1 and 3. Appellant had two dependent children in 2018. *Id.*

2. Appellant’s household health insurance coverage which they purchased through the Health Connector in 2017. Testimony; Exhibit 1 at 3. Exhibit 3.
3. Appellant’s household did not have access to employer-sponsored health insurance in 2017 or 2018. Testimony.
4. Although Appellant’s household had health insurance coverage in 2017, they incurred significant uncovered expenses including copayments for a surgery that resulted in a repayment plan of \$172.00 per month that continued through 2018. Testimony; Exhibit 1 at 3, 5.
5. Based on the cost of continuing health insurance coverage in 2018 and their monthly expenses, Appellant decided that the household could only afford to enroll Appellant’s spouse in health insurance coverage for 2018. Testimony; Exhibit 1 at 3. The coverage for Appellant’s spouse in 2018 cost \$459.00 monthly. Testimony. Appellant’s spouse selected a higher-cost plan because they were expecting a child in 2018 and their hospital of choice was not covered in lower-cost plans. Testimony.
6. Both Appellant and Appellant’s spouse had health insurance coverage in 2019. Testimony.
7. Appellant and Appellant’s spouse filed a Massachusetts Resident Income Tax Return for 2018 jointly a married couple in which they reported a Federal Adjusted Gross Income of \$98,879.00. Exhibit 3. The Schedule HC filed with the return reported no health insurance coverage in 2018 for Appellant that met minimum creditable coverage (“MCC”) requirements. *Id.*
8. Based on Appellant’s 2018 Schedule HC, the Department of Revenue (“DOR”) assessed a 12-month tax penalty on Appellant. Exhibit 3.
9. Appellant appeals the 2018 tax penalty on grounds of financial hardship and unaffordability. Exhibit 1. Appellant’s basic household living expenses in 2018 were as follows:

Mortgage Payment (including property tax and insurance)	\$1,250.00
Essential Utilities	\$510.00
Auto Insurance	\$110.00
Gasoline	\$350.00
Food	\$650.00
Clothing	\$85.00
Health Insurance	\$459.00
Medical Bills (carryover from 2017)	\$172.00
Student loans	\$125.00
Total	\$3,711.00

10. Appellant’s household was chronically behind in their electric payments in 2018 and received notices warning that their service would be shut off for failure to pay. Exhibit 1 at 7-9.

11. Appellant's household resided in Hampshire County in 2018 on the border of Hampden County where their medical providers are located. Testimony; Exhibit 1 at 3; Exhibit 3.

In addition to the foregoing facts, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/files/documents/2019/01/28/dor-2018-inc-sch-hc-inst.pdf>, and in particular Tables 1 – 6 which, as will be discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The Health Care Reform Act of 2006 (the "HCRA") 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).

Individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL"), which was set at \$36,900.00 for family of four in 2018, are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 18-2, available at <https://www.mass.gov/technical-information-release/tir-18-2-individual-mandate-penalties-for-tax-year-2018>. In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. Mass. Gen. Laws ch. 111M, § 2; 830 Mass. Code Regs. 111M.2.1(5)(c). 830 Mass. Code Regs. 111M.2.1(5)(c). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at [www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf](http://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf).

Since Appellant's reported household income of \$98,879.00 in 2018 was more than 150 percent of the applicable FPL (\$36,900.00), which subjects Appellant to the individual mandate tax penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to Appellant 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's 2018 filing status was married with two dependents. Exhibit 3. 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's household could afford to pay 8.05 percent of the reported Federal AGI or \$663.31 monthly ( $\$98,879.00 \times .0805 = \$7,959.76 \div 12 = \$663.31$ )

for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Appellant's household was not eligible for employer-sponsored health insurance in 2018, and their income exceeded the eligibility cut-off eligible for government-subsidized health insurance. *Id.* at Table 2. Based on their age range (31-34), private health insurance would have cost \$647.00 monthly in Appellants' county of residence (Hampshire) which is affordable but would have been unaffordable at a cost of \$721.00 monthly in Hampden County where the family's medical providers are located. *Id.* at Table 4. Since Appellant did not obtain health insurance coverage in 2018 that is deemed affordable based on Appellant's county of residence, Appellant is subject to the HCRA's tax penalty unless Appellant demonstrates a qualifying hardship. 956 Mass. Code Regs. 6.08.

Appellant argues that it is unfair to assess the affordability of health insurance based on Appellant's county of residence when the family's medical providers are located in the adjoining county. Exhibit 1 at 3. This argument has some merit. The hardship regulation sets forth specific hardship criteria but also provides that the Health Connector shall consider any other grounds that an appellant asserts as demonstrating that health insurance meeting minimum creditable coverage requirements was not affordable. 956 Mass. Code Regs. 6.08(3). In addition, the "Statement of Grounds for Appeal" form contains an "Other" grounds box which Appellant checked and which, in part, allows an appellant to appeal on the ground that applying the Affordability Tables is inequitable. Exhibit 1 at 2. In this case, rigidly applying the Affordability Tables to Appellant produces an inequitable result because the cost of insurance in Hampshire County where Appellant resides is deemed affordable under the tables but unaffordable in Hampden County where the family actually receives their medical care. Under these particular circumstances, and additionally taking into consideration Appellant's household financial circumstances in 2018 when they were chronically late in paying for essential utilities,<sup>1</sup> I find that health insurance was not affordable to Appellant in 2018.

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

#### **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

<sup>1</sup> Receipt of a shut-off notice for an essential utility (defined as gas, electric, oil, water or telephone) is specifically recognized in the regulations as indicative of hardship. 956 Mass. Code Regs. 6.08(1)(b).

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-1079

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** December 9, 2019

**Decision Date:** January 31, 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 and his mother appeared at the hearing, which was held by telephone, on December 9, 2019. Both offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2018 Schedule HC (1 page)
- Exhibit 2: 8/22/19 Appeal (7 pages)
- Exhibit 3: 11/8/19 Hearing Notice (3 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2018 was Single with no dependents. The Appellant's federal AGI in 2018 was \$26,608. The Appellant resided in Middlesex County in 2018. The Appellant turned twenty-nine years old in 2018. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2018 income tax return. (Exhibit 2)
3. The Appellant did not have health insurance coverage at any time during 2018. (Appellant's testimony)
4. The Appellant has worked as a seasonal full-time employee for the same state government agency for several years, working from April 1 until early October every year. During his off period, the Appellant received unemployment benefits. (Appellant's testimony)
5. The Appellant's employer offers health insurance coverage to full-time employees. The Appellant has applied for his employer's coverage in the past. However, it takes so long for his application to process through the agency that, by the time he is approved, his work season has ended and he is no longer employed and eligible. (Appellant's testimony)

6. In 2018, the Appellant applied again for coverage through his agency. Again, the Appellant did not get an approval for coverage until after his seasonal job had ended and he was no longer eligible. (Appellant's testimony)
7. The Appellant's weekly unemployment check during his off-season was \$250-\$275. His payments usually ended two or three weeks prior to his return to work. (Appellant's testimony)
8. The Appellant was living with his mother and her fiancé at the beginning of 2018. In early April 2018, his mother's fiancé passed away. On June 21, 2018, the Appellant's mother lost her job and was unemployed until October 2018. During this period, the Appellant was the sole source of income for the household, other than his mother's unemployment benefits.
9. The Appellant paid the full monthly rent of \$1,450 for their apartment and other household expenses during his mother's unemployment in 2018. (Appellant's testimony)
10. The Appellant has had health insurance coverage through his agency/employer since July 1, 2019, as a result of becoming a supervisor and a year-round employee on May 15, 2019. (Appellant's testimony)
11. According to Table 2 of the 2018 Schedule HC, the Appellant was eligible for government-subsidized insurance in 2018, since his AGI for 2018 was less than \$36,180 for a family of one.
12. According to Table 3, Affordability, of the Schedule HC 2018, based on his 2018 AGI and Single tax-filing status, the Appellant could have afforded to pay up to 4.2 percent of his income for health insurance in 2018, which calculates to a monthly premium of up to \$93 for coverage.
13. According to Table 4, Premiums, of the Schedule HC 2018, the Appellant could have purchases health insurance coverage in the private market in 2018 for a monthly premium of \$249.

**ANALYSIS AND CONCLUSIONS OF LAW**

M.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.

In this case, I find credible the Appellant's testimony that he could not afford health insurance coverage in 2018 due to the nature of his employment and the additional financial burden he assumed following the death of his mother's fiancé in early 2018 and his mother losing her job soon thereafter. While it appears that the Appellant had access to coverage through his employer for much of 2018, in practice the Appellant did not have access, as it took so long for the state agency for which the Appellant worked to process his application and approve his enrollment that the Appellant was no longer employed by the agency by the time he was approved. Although the Appellant could have applied for coverage for the first three months of 2018, before having access to employer-sponsored coverage through the agency, the Appellant's financial situation was precarious during that time, as his income was limited to unemployment benefits and as the two other members of his household were dealing with difficult financial and life circumstances.

Therefore, I conclude that the Appellant has established that he could not afford to purchase health insurance coverage that met minimum creditable coverage standards in 2018.

Accordingly, the Appellant's twelve-month penalty for 2018 shall be waived in full.

**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: PA18-1088

**Appeal Decision** Appeal Approved

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

**Hearing Date:** December 10, 2019

**Decision Date:** January 15, 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 December 10, 2019.

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

Exhibit 1: Notice of Hearing dated November 12, 2019

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 forty-three years old and is married with two dependents. They formerly lived in Suffolk County but now reside in Maryland.

2. Appellant stated that Appellant did not have health insurance in 2018. Appellant stated his wife had health insurance. Appellant had no health insurance in 2019.
3. Appellant could have obtained health insurance for himself from his employer for \$500.00 a month but could not afford to pay that amount. The reason that Appellant could not afford to pay the premium was that he was that he paid over \$20,000.00 in health related costs for his mother in 2018, as shown in his documents, attached to Exhibit 3. Appellant now resides in Maryland. Appellant's mother has had a heart attack and three strokes necessitating great health care costs.
4. The Appellant's monthly expenses totaled \$4,484.61, consisting of rent \$1,100.00, internet & cable \$50.00, cell phone \$100.00 car payments \$285.00, car insurance \$130.00, car gas \$160.00, food \$250.00, credit card \$180.00, clothing \$300.00, entertainment \$150.00, toiletries \$100.00, Mother's expenses \$1,680.00.
5. The appellant did not submit a Statement of Grounds for Appeal-2018 but should have filed an appeal under the grounds for Appeal, "During 2018, you incurred a significant expense in essential expenses resulting directly from the consequences of the sudden responsibility for providing full care for an ageing parent" I will hear his appeal under this ground.
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 \$115,749.00 was more than \$48,720.00. The monthly premium for health insurance available on the private market in Suffolk County for a 42 year old married person with two dependents was \$777.00. The tables reflect that Appellants could afford \$776.48. 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-2018 but should have filed an appeal under the grounds for Appeal, “During 2018, you incurred a significant expense in essential expenses resulting directly from the consequences of the sudden responsibility for providing full care for an ageing parent” 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 2018, 150 percent of the FPL was \$36,900.00 for a married person with two 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 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 could have obtained health insurance for himself from his employer for \$500.00 a month but could not afford to pay that amount. The reason that Appellant could not afford to pay the premium was that he was that he paid over \$20,000.00 in health related costs for his mother in 2018, as shown in his documents, attached to Exhibit 3. Appellant now resides in Maryland. Appellant’s mother has had a heart attack and three strokes necessitating great health care costs.

Appellant reported a federal AGI of 115,749.00 in 2018, and Appellant’s filing status was married with two children. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$776.480 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 777.00 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 \$776.48 for health insurance coverage because of their income. Private insurance in the market place was \$777.00 per month, which is more than they could afford. Appellant paid over \$20,000.00 in health care costs for his mother due to her illness. This severely lessened the Appellant’s ability to pay for health insurance. 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:   3        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA18-1089

**Appeal Decision** Appeal Approved

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

**Hearing Date:** December 10, 2019

**Decision Date:** January 15, 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 December 10, 2019.

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

Exhibit 1: Notice of Hearing dated November 12, 2019

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 forty-nine years old and is single with one child. She lives in Los Angeles California.
2. Appellant works in the movie business. Appellant has lived in Mexico for nearly eight years. She used her mother's address for tax purposes but has not lived in Massachusetts since 1995. Appellant found work in Tennessee starting in August 2018. Appellant furnished her Tennessee drivers license, Mexican permanent resident card and work stubs to show she did not live in Massachusetts. Her testimony was consistent with her documents and I give full credit to her testimony.
3. Appellant does have health insurance in 2019..
4. The Appellant did not submit a Statement of Grounds for Appeal-2018 but should have appealed under the grounds for Appeal, " Other. During 2018 other circumstances such as: you didn't reside in Massachusetts during your period of uninsurance". I will hear Appellant's appeal under this ground.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 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.

## **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-2018 but should have appealed under the grounds for Appeal, " Other. During 2018 other circumstances such as: you didn't reside in Massachusetts during your period of uninsurance". I will hear Appellant's 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 2018, 150 percent of the FPL was \$24,360.00 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.*

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 provided proof that she did not reside in Massachusetts during 2018 through pay stubs, Mexican permanent resident card, Tennessee drivers licens and her testimony

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 his 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: \_\_\_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: PA16792

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

**Hearing Issue:** Appeal of the 2016 Tax Year Penalty

**Hearing Date:** November 18, 2019

**Decision Date:** January 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 and one of his parents appeared at the hearing which was held by telephone on November 18, 2019. 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 2016

Exhibit 2: Statement of Grounds for Appeal 2016 signed and dated May 22, 2019

Exhibit 3: Notice of Hearing sent to Appellant dated October 10,, 2019 for November 18, 2019 hearing

Exhibit 4: Appellant's 2016 1095-C

Exhibit 5: Appellant's 2016 W-2 form

Exhibit 6: Letter dated May 22, 2019 from Appellant's accountant

Exhibit 7: Appellant's 2016 Massachusetts tax return

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2016 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2016 (Exhibit 1, Testimony of Appellant).
2. Appellant lived in Suffolk County in 2016. Appellant lived in one apartment until some time in May when he moved to another apartment (Exhibit 1, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2016 of \$26,761 (Exhibit 1, and Testimony of Appellant).
4. Appellant was self-employed and also worked for a temp agency covering various positions until the end of August, 2016. His income varied from month to month. Appellant was a not offered health insurance through the temp agency because he did not work enough hours (Testimony of Appellant).
5. At the end of August, Appellant obtained a full-time job. Appellant earned \$17,030 from the end of August through December, 2016. He was offered health insurance through this job and he enrolled in the coverage offered

as of the beginning of September, 2016. The coverage met the Commonwealth's minimum creditable coverage standards (Testimony of Appellant, Exhibits 1, 5, 6).

6. Appellant still had health insurance which met the Commonwealth's standards as of the date of this hearing (Testimony of Appellant).

7. Appellant has been assessed a penalty for January through May, 2016. Appellant has appealed the assessment (Testimony of Appellant, Exhibits 1, 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.

9. According to Table 3 of Schedule HC for 2016, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$26,761 could afford to pay \$93 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$143 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2016, Tables 3 and 4, Exhibit 1).

10. According to Table 2 of Schedule HC for 2016, Appellant earning less than \$35,310 per year, would have been eligible for the ConnectorCare program based upon income. Appellant would also be eligible because Appellant had no access to employer-sponsored coverage (Table 2 of Schedule HC-2016, Exhibit 1, 956 CMR 12.00et seq.).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; 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 2016 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2016 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices in 2016 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2016 from January through May: rent including heat and electricity-\$850; phone-\$75; food, household supplies, and personal items-\$700; public transportation-\$85; clothes-about \$120. Appellant also had to provide some care for his grandmother who was ill. He had to travel out-of-state numerous times during the year to visit and provide care for her. Over the year, he spent about \$3,000 for travel and care (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2016 should be waived, either in whole or in part.

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

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant was assessed for a penalty for five months, January through May, in 2016. The appellant has appealed the assessment. Exhibits 1, 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months he 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 2016, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$26,761 could afford to pay \$93 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Suffolk County, could have purchased insurance for \$143 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant was self-employed and also worked for a temp agency covering various positions until the end of August, 2016. His income varied from month to month. Appellant was not offered health insurance through the temp agency because he did not work enough hours. See the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage, earning less than \$35,310, the income limit for an individual. Appellant was also eligible because the appellant was not offered insurance through employment. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2016 and 956 CMR 12.00 et.seq.

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

Appellant had the following monthly expenses for basic necessities in 2016 from January through May: rent including heat and electricity-\$850; phone-\$75; food, household supplies, and personal items-\$700; public transportation-\$85; clothes-about \$120. Appellant also had to provide some care for his grandmother. He had to travel out-of-state numerous times during the year to visit and provide care for his grandmother who was ill. Over the year, he spent about \$3,000 for travel and care. See the testimony of the appellant which I find credible.

Appellant was self-employed and worked for a temp agency at various assignments from January through August, 2016. At the end of August, Appellant obtained a full-time job. He earned approximately \$17,000 from September through December at this job. That means he earned about \$12,000 before taxes from January through August, or \$1,000 a month. See Exhibits 1 and 5 and the testimony of the appellant which I find to be credible. His expenses for basic necessities amounted to \$1,900 a month, not including any funds he spent to visit and care for his ill grandmother. Every month, Appellant ran a deficit of about \$900. He had no disposable income.

Based upon these facts, 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),and 6.08(3), the appellant

had a serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellant. After paying his expenses for basic necessities and taxes, Appellant had a significant deficit. Appellant's penalty is fully waived because of financial hardship.

Appellant should note that any waiver granted here is for 2016 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:   5   Number of Months Assessed:   0  

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2016.

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

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

CC. Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18769

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

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

**Hearing Date:** November 8, 2019

**Decision Date:** January 1, 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 November 8, 2019. 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 May 17, 2019 with letter in support attached

Exhibit 3: Notice of Hearing sent to Appellant dated October 2, 2019 for November 8, 2019 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 28 years old in 2018 (Exhibit 1, Testimony of Appellant).
2. Appellant was homeless for most of 2018. Until the fall, Appellant lived in her car in camp sites, or with friends, sleeping on couches. She, for the most part, stayed in Plymouth County (Exhibits 1, Testimony of Appellant).
3. Appellant was able to obtain housing in October, 2018 in Plymouth County (Testimony of Appellant).
4. Appellant had a Federal adjusted gross income of \$21,305 in 2018 (Exhibit 1, and Testimony of Appellant).
5. Appellant was self-employed all year as a house cleaner. Appellant's income was consistent throughout the year (Testimony of Appellant, Exhibit 2 attachment).

6. Appellant had no health insurance in 2018. She has been assessed a tax penalty for all of 2018. Appellant has appealed the assessment (Exhibits 1 and 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 who filed Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$21,305 could afford to pay \$51 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Plymouth County, could have purchased insurance for \$249 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 1).

9. According to Table 2 of Schedule HC for 2018, Appellant earning less than \$36,180 per year, would have been eligible for the ConnectorCare program based upon income. She would also be eligible because, being self-employed, she had no access to employer-sponsored coverage (Table 2 of Schedule HC-2018, Exhibit 1, 956 CMR12.00 et seq.).

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 receive shut-off notices for any basic utilities in 2018 (Testimony of Appellant).

12. Appellant was homeless for most of 2018. She lived in her car, often staying at camp grounds. At times, she stayed with friends, "couch hopping." In the fall of 2018, she was able to find an apartment, after saving enough for first and last month rent and a security deposit (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2018: rent for camp sites from January through September-\$200; telephone-\$60; food-\$540; clothing-\$50; car insurance-\$80; gas-\$430; payments to the Internal Revenue Service-\$150. Once the appellant had an apartment from October through December, her rent increased to \$1,200 a month. She also paid \$100 for heat and \$100 for electricity. Her other expenses remained the same. She had to pay her last month's rent and a security deposit of \$1,000 in October. During the year, Appellant spent \$2,000 on car repairs. She needed her car to get to work (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 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. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant was assessed for a penalty for all of 2018. The appellant has appealed the assessment. Exhibits 1, 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months the appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2018, the appellant who filed Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$21,305 could afford to pay \$51 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Plymouth County, could have purchased insurance for \$249 per month for a plan for an individual. Insurance on the individual market would not have been affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 1.

Appellant was self-employed all year. She had no access to employer-sponsored health insurance. See the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage. She earned less than \$36,180, the income limit for an individual. She was also eligible because she was not offered insurance through employment. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq.

Since the appellant could have had ConnectorCare coverage, we need to determine if she 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 was homeless for most of 2018. She lived in her car, often staying at camp grounds. At times, she stayed with friends, "couch hopping." In the fall of 2018, she was able to find an apartment, after saving enough for first and last month rent and a security deposit. See the testimony of the appellant which I find to be credible. Pursuant to 956 CMR 6.08(1)(a) being homeless constitutes a financial hardship such that the cost of purchasing health insurance becomes unaffordable. I determine that since Appellant was homeless for nine months of the year, she had such a financial hardship.

In addition, Appellant had the following monthly expenses for basic necessities in 2018: rent for camp sites from January through September-\$200; telephone-\$60; food-\$540; clothing-\$50; car insurance-\$80; gas-\$430; payments to the Internal Revenue Service-\$150. Once the appellant had an apartment from October through December, her rent increased to \$1,200 a month. She also paid \$100 for heat and \$100 for electricity. Her other expenses remained the same. She had to pay her last month's rent and a security deposit of \$1,000 in October. During the year, Appellant spent \$2,000 on car repairs. She needed her car to get to work. See the testimony of the appellant which I find to be credible.

Appellant's monthly income before taxes came to about \$1,700 a month. Her expenses, even while homeless, amounted to \$1,510, not counting car repairs of \$2,000. She not only needed her car to get to work, but until October, she lived the vehicle (except for days she was able to find a friend to stay with). Based upon these facts, I determine that the appellant also had a financial hardship such that the cost of health insurance was unaffordable pursuant to 956 CMR 6.08(1)(e). The cost of purchasing insurance could have caused her to experience a serious deprivation of basic necessities.

Appellant's penalty is fully waived because of financial hardship.

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.

CC. Connector Appeals Unit

Hearing Officer

Addendum: If Appellant still does not have health insurance, she may wish to contact the Connector by telephone at 1-877-623-6765 or on line at [MAhealthconnector.org](http://MAhealthconnector.org) to see if she might be eligible for ConnectorCare coverage or other Connector health plans.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA16794

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

**Hearing Issue:** Appeal of the 2016 Tax Year Penalty

**Hearing Date:** November 18, 2019

**Decision Date:** January 15, 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 November 18, 2019. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until December 13, 2019 to give the appellant time to submit additional evidence. Documents were received by the Connector on December 11, 2019. These have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2016
- Exhibit 2: Statement of Grounds for Appeal 2016 unsigned and undated with letter in support attached
- Exhibit 3: Notice of Hearing sent to Appellant dated October 10, 2019 for November 18, 2019 hearing
- Exhibit 4: Appellant's 2016 Form MA 1099-HC showing coverage January through March
- Exhibit 5: Appellant's 2016 Form MA 1099-HC showing coverage July through December

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2016 Massachusetts tax return as Head of Household with one dependent claimed, was 53 years old in 2016. She was a full-year resident (Exhibit 1, Testimony of Appellant).
2. On Appellant's 2016 tax return, Appellant indicated that she had no health insurance which met the Commonwealth's minimum creditable coverage standards (Exhibit 1).
3. Appellant had health insurance which met the Commonwealth's standards for nine months in 2016. Appellant had coverage through MassHealth from January through March and through a Harvard Pilgrim plan from July through December, 2016 (Exhibits 4 and 5; Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2016 should be waived, either in whole or in part.

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

The appellant was assessed for a penalty for all of 2016. The appellant has appealed the assessment. Exhibits 1, 2. It appears that Appellant made an error when completing her 2016 Massachusetts tax return, and did not indicate correctly the months during which she had health insurance which met the Commonwealth’s standards. See Exhibit 1. In fact, Appellant had coverage which met minimum creditable coverage standards from January through March and from July through December. See Exhibits 4 and 5, the appellant’s Forms MA 1099-HC. Appellant had no coverage from April through June. Pursuant to Massachusetts General Laws, Chapter 111M, Section 2, the appellant is entitled to a three-month grace period (with no penalty assessed) after losing coverage at the end of March.

Appellant’s penalty is waived in its entirety. Appellant had coverage which met the Commonwealth’s standards from January through March and from July through December. She was entitled to a three-month grace period for April through June, 2016.

Appellant should note that any waiver granted here is for 2016 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 2016.

## **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

