

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-26

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 28, 2020

**Decision Date:** June 11, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-15-20) (with letter) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 38 during 2019, from Essex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$35,949.00 (Exhibit 2).
4. Appellant was homeless for all of 2019. Appellant is still homeless. (Appellant testimony, Exhibit 3).
5. Appellant's employer did offer health insurance but Appellant did not believe it was affordable for them. The cost for the employer-sponsored insurance was approximately \$250 per month. (Appellant's Testimony).

6. Appellant's expenses for food, shelter, clothing, child support and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, child support and other necessities, totaled approximately \$2,000.00 per month averaged out, or \$24,000.00 for the year (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$286.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$150.00.
9. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
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 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that Appellant was homeless during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was homeless, but was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 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 2019. 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$35,949.00 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 \$150.00 per month; according to Table 4, Appellant, who was 38 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$286.00 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.

With regard to the hardship waiver of the penalty, Appellant claimed that Appellant was homeless for all of 2019. In addition, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount 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 2019 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 2019.

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

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

Hearing Officer

Cc:      Connector Appeals Unit

**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: PA19-27

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 28, 2020

**Decision Date:** June 11, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (2-21-20) (with documents) (5 pages);
- Exhibit 4: 1095-HC (1 page).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 59 during 2019, from Essex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did have health insurance for January through May of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, 3, and 4).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$32,181.00 (Exhibit 2).
4. Appellant was laid off in October 2018, and the employer continued to provide health insurance through May 2019. It is unknown whether the health insurance provided by the employer met

minimum creditable coverage, but the employer did provide a 1095-HC indicating coverage for January through May 2019. (Appellant testimony, Exhibits 3 and 4).

5. Appellant was unemployed for all of 2019, but did receive severance through May of 2019, and thereafter collected on a pension and received unemployment compensation. (Appellant's Testimony).
6. Appellant was offered COBRA after May of 2019, but did not believe it was affordable. Appellant contacted the Health Connector for information on health insurance but did not pursue it. (Appellant Testimony).
7. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, child support and other necessities, totaled approximately \$2,000.00 per month averaged out, or \$24,000.00 for the year (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$134.00.
10. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
11. 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 2019).
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, and that Appellant had health insurance for part of the year. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 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 employer sponsored health insurance for January through May of 2019, but did not have health insurance for the remaining months of 2019. It is unknown whether the employer-sponsored health insurance met minimum creditable coverage, but Appellant did receive a 1095-HC indicating coverage for January through May 2019. 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$32,181.00 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 \$134.00 per month; according to Table 4, Appellant, who was 59 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$418.00 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.

With regard to the hardship waiver of the penalty, Appellant claimed that Appellant had health insurance for January through May of 2019, and that paying for health insurance for the remaining months of 2019 would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount 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 2019 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 2019.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**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: PA19-30

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 28, 2020

**Decision Date:** June 11, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-21-20) (with letter and documents) (11 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 61 and 59 during 2019, from Hampden County, filed married filing jointly on the tax return with a family size of 2 (Exhibit 2).
2. One of Appellants had health insurance for all of 2019, and the other Appellant did have health insurance for January through June of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$35,980.00 (Exhibit 2).
4. Appellant indicated that they had automatic payment of the health insurance through the Health Connector. However, in May, Appellant received a card for MassHealth and was notified that MassHealth was covering Appellant. Appellant does not understand why this occurred as they

did not believe they qualified for MassHealth. Appellant made several calls and was informed that it was unclear why this happened, and that the ConnectorCare health insurance would resume in August or September. The payment was not deducted so Appellant went online and paid manually for two months. Appellant did not receive notification that the health insurance had lapsed. (Appellant testimony, Exhibit 3).

5. Appellant learned when they went for a flu shot in December 2019 that there was no health insurance. Appellant also received a check “refunding” two months of premium. When Appellant had gone on the website in the fall to renew for 2020, there had been no indication of an issue with the health insurance. (Appellant testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$836.00 for coverage as a married couple. According to Table 3, Appellants were deemed to afford \$186.00.
8. Private insurance was not affordable for the Appellants in 2019 (Schedule HC for 2019).
9. Appellants’ AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that Appellant’s lack of insurance was inadvertent on her part and that she had taken steps to secure it. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 should be waived in whole, in part, or not at all.

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

63-day gap in coverage to be three months. The connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

One of Appellants had health insurance for the entire year of 2019, and the other Appellant did have health insurance for January through June of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for three months for one of them and no months for the other. Appellants appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$35,980.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$186.00 per month; according to Table 4, Appellants, who were 61 and 59 years old in 2019, lived in Hampden County and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$836.00 for coverage 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, Appellant claimed that Appellant had health insurance for January through June of 2019, and that for reasons that were not understood and despite efforts to retain the insurance, Appellant lost the insurance as of July 2019. Appellant also was unaware that the insurance was not in place until December 2019. 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 2019 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: 3/0    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 2019.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**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: PA19-32

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 21, 2020

**Decision Date:** June 2, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-21-20) (with document) (6 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 27 during 2019, from Suffolk County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did have health insurance for January and for November and December of 2019, but did not have health insurance during the other months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$52,698.00 (Exhibit 2).
4. Appellant left a full-time job that had health insurance in February 2019, and thereafter had inconsistent income until July 2019. Appellant secured full-time employment in October and had

health insurance for November and December of 2019 through the employer. (Appellant testimony).

5. During the months that Appellant did not have health insurance, the Appellant's income was lower and inconsistent. (Appellant's Testimony).
6. Appellant now has health insurance currently through the employer. (Appellant testimony).
7. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled \$3,000.00 per month averaged out, or \$36,000.00 for the year (Appellant's Testimony, Exhibit 3).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$351.00.
10. Private insurance was affordable for the Appellant in 2019 (Schedule HC for 2019).
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 2019).
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 not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellant was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 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 and for November and December of 2019, but did not have health insurance for the remaining months of 2019. 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$52,698.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$351.00 per month; according to Table 4, Appellant, who was 27 years old in 2019, lived in Suffolk County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 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.

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, and other necessities used a significant amount of the income. Appellant has health insurance now through the employer. 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 2019 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 2019.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**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: PA19-33

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 21, 2020

**Decision Date:** June 2, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-17-20) (with documents and notes) (16 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 27 during 2019, 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 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$37,337.00 (Exhibit 2).
4. Appellant's employer offered health insurance that would have cost approximately \$230 per month, and Appellant did not believe that was affordable. (Appellant testimony, Exhibit 3).
5. Appellant contacted the Health Connector but it would also have not been affordable according to Appellant. (Appellant's Testimony, Exhibit 3).
6. Appellant now has health insurance currently through the employer. (Appellant testimony).

7. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled \$2,280.00 per month averaged out, or \$27,360.00 for the year (Appellant's Testimony, Exhibit 3).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$231.00.
10. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
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 2019).
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 not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellant was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 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 2019. 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$37,337.00 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 \$231.00 per month; according to Table 4, Appellant, who was 27 years old in 2019, lived in Norfolk County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 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.

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, and other necessities used a significant amount of the income. Appellant has health insurance now through the employer. 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 2019 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 2019.

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

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

Hearing Officer

Cc:      Connector Appeals Unit

**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: PA19-35

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 21, 2020

**Decision Date:** June 2, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-23-20) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 26 during 2019, from Essex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did have health insurance January through May of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$40,660.00 (Exhibit 2).
4. Appellant had health insurance through the employer for January through May, but was laid off in May and was on unemployment for the remainder of 2019. When Appellant was on unemployment and did not have health insurance, Appellant's unemployment income was

\$516.00 per week (\$2,236.00 per month). Appellant was offered COBRA but did not believe it was affordable. (Appellant testimony, Exhibit 3).

5. Appellant still does not have a job and has no income. (Appellant's Testimony).
6. Appellant's expenses for food, shelter, clothing, and other necessities used some of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled \$1,084.00 per month averaged out. Appellant has no money to pay any penalty at this time. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$252.00.
9. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
10. 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 2019). However, Appellant may have qualified once Appellant was laid off.
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; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 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 May of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for four 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$40,660.00 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 \$252.00 per month; according to Table 4, Appellant, who was 26 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 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.

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, and other necessities used some of the income. Appellant's income was significantly reduced during the months that Appellant did not have health insurance, and currently Appellant is still not employed and has no 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 2019 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: 4      Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

**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: PA19-36

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 21, 2020

**Decision Date:** June 2, 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 April 21, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-11-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-18-20) (with letter and documents) (11 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 24 during 2019, from Suffolk County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$23,950.00 (Exhibit 2).
4. Appellant did not live in Massachusetts from January through May of 2019. Appellant moved to Massachusetts in June of 2019, but did not believe they would be staying more than a few months. Appellant thought health insurance might be available through the employer but did not qualify. Appellant attempted to obtain health insurance through the Health Connector but

did not qualify as a resident, and Appellant eventually obtained health insurance through Hawaii, but not until January 2020. (Appellant testimony, Exhibit 3).

5. Appellant has health insurance now through an employer. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$58.00.
8. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore would have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019). However, Appellant indicated that when Appellant tried to obtain health insurance through the Health Connector, the application was rejected. (Appellant Testimony, Exhibit 3).
10. Appellant claimed that they should be granted a waiver based on the grounds that other circumstances applied in that Appellant was not a resident of Massachusetts for some of the months and that attempts to obtain health insurance were not successful. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (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 2019 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 2019. 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 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$23,950.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$58.00 per month; according to Table 4, Appellant, who was 24 years old in 2019, lived in Suffolk County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 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.

With regard to the hardship waiver of the penalty, Appellant claimed that other circumstances applied in that Appellant did not live in Massachusetts for six of the twelve months, and that Appellant attempted to obtain health insurance for the months they lived in Massachusetts. Appellant believed health insurance was available through the employer but they did not qualify. Appellant attempted to obtain health insurance through the Health Connector and was rejected as not being a resident. Appellant. 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 2019 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 2019.

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

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

Hearing Officer

Cc:      Connector Appeals Unit

**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: PA19-83

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** May 15, 2020

**Decision Date:** June 16, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 15, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on February 28, 2020, with attachments.
- Exhibit 4: Health Connector Open Record form dated May 15, 2020.
- Exhibit 5: Additional information submitted by the Health Connector on June 2, 2020.
- Exhibit 6: A letter from the Appellant dated June 4, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 25 years old in February 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$48,375 (Exhibit 2).
4. The Appellant did not have health insurance for the period of January through August in tax year 2019 (Exhibit 2).

5. The Appellant has been assessed a five-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$48,375 could afford to pay \$306 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Norfolk County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant testified that they had two part time jobs and was not eligible for employer sponsored health insurance. One of the jobs was seasonal. The Appellant said that they thought they were insured through MassHealth and did not find out until April 2019 that their MassHealth had ended. The Appellant said that they went for medical treatment and found out they were uninsured. The Appellant said that they contacted MassHealth and were told that they were still covered. The Appellant also testified that they did apply through the Health Connector at the end of 2018 but did not get any information. The Appellant was asked why they applied at the end of tax year 2018 since the Appellant's earlier testimony was that they believed they had MassHealth and did not realize this was not the case until April 2019? The Appellant then said that they did not understand and did not want to proceed. The Appellant's testimony was inconsistent and therefore not credible (Appellant Testimony).
9. The Appellant was advised that the record would be left open and the Health Connector would be asked to submit any documentation regarding the Appellant's eligibility and enrollment history, if any, through the Health Connector for tax year 2019 (Exhibit 4).
10. On June 2, 2020, the Health Connector submitted additional information (Exhibit 5).
11. On October 8, 2018, the Appellant was notified that they had been determined eligible for ConnectorCare health insurance plans through the Health Connector for the tax year beginning January 2019. The six-page notice explained the ConnectorCare program and contained information explaining that MassHealth was a separate program. The notice contained detailed information to the Appellant regarding choosing a health plan and enrollment. Contact information including the telephone number for Customer Service was provided should the Appellant have questions. The notice was sent to the Appellant's address of record (Exhibit 5).
12. On October 9, 2019, the Appellant was notified that they had been determined eligible for ConnectorCare health insurance plans through the Health Connector for the tax year beginning January 2020. The six-page notice explained the ConnectorCare program and contained information explaining that MassHealth was a separate program. The notice contained detailed information to the Appellant regarding choosing a health plan and enrollment. Contact information including the telephone number for Customer Service was provided should the Appellant have questions. The notice was sent to the Appellant's address of record (Exhibit 5).

13. The Health Connector verified that the Appellant did not enroll in ConnectorCare for the period beginning January 1, 2019 (Exhibit 5).
14. The Health Connector Appeals Unit sent the additional information to the Appellant and the Appellant was advised that the record would remain open until June 15, 2020 to allow the Appellant to submit a written response (Exhibit 5).
15. The Appellant submitted a letter dated June 4, 2020. The Appellant wrote that they were not aware until the May 15, 2020 hearing that MassHealth and the Health Connector were not the same entities. The Appellant also wrote that they received a notice from MassHealth in 2018 informing them they were not eligible. The letter was inconsistent with the Appellant's initial testimony at the May 15, 2020 hearing that they believed that they had MassHealth and did not find out it had stopped until April 2019. The Health Connector issued notices to the Appellant on October 8, 2018 and October 9, 2019 with detailed enrollment information including a statement that MassHealth was a separate eligibility determination. The Appellant's written statement was inconsistent with their testimony at the May 15, 2020 hearing (Exhibit 6 and Appellant Testimony).
16. The Appellant's monthly living expenses of \$1,617 included: rent-\$700; oil heat-\$60; electricity-\$25; telephone-\$180; food-\$217; T-pass-\$85 and student loans-\$350 (Appellant Testimony).
17. The Appellant did not allege financial hardship and did not submit any evidence that they fell behind in their rent or utility payments or incurred any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Exhibits 3, 6 and Appellant Testimony).

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

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

The Appellant did not have health insurance for the period of January through August in tax year 2019 and has consequently been assessed a five-month penalty. The Appellant submitted a statement of grounds for this appeal citing "other" as the basis for the Appeal.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$48,375 could afford to pay \$306 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Norfolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant did not allege financial hardship on their appeal request. At the hearing held on May 15, 2020 the Appellant initially testified that they thought they had MassHealth until April of that year when they were informed when trying to obtain medical treatment that the MassHealth had been terminated. The Appellant testified later in the hearing that they applied through the Health Connector in late 2018 but never received a response. The Appellant wrote in their June 4, 2020 letter that they were unaware that MassHealth and Health Connector were not the same program until this was explained at the May 15, 2020 hearing. The Health Connector had issued an eligibility notice to the Appellant on October 8, 2018. The Appellant was informed that they were determined eligible for ConnectorCare through the Health Connector for the period beginning January 2019. The notice contained detailed information about choosing a health plan and enrolling. The notice indicated that MassHealth was a separate program. Contact information for the Health Connector was provided should the Appellant have questions. A similar notice was issued to the Appellant on October 9, 2019. In the June 4, 2020 letter the Appellant wrote that they had received an ineligibility letter from MassHealth in 2018. The Appellant's testimony and written statements were inconsistent and therefore not credible.

The Appellant did not offer credible evidence or testimony in this administrative record to indicate that purchasing health insurance for the period of January through August in tax year 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's five-month penalty is upheld.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_5\_\_\_ Number of Months Assessed: \_\_\_5\_\_\_

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-92

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** May 20, 2020  
**Decision Date:** June 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 May 20, 2020. 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, dated April 17, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated Feb. 26, 2020
- Exhibit 4: Statement in Support of Appeal
- Exhibit 5: Appeal decision for 2017
- Exhibit 6: Appeal decision for 2016

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 42 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Hampshire County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$22,183 (Exhibit 2).
4. Appellant worked part-time from January through March 2019 and employer sponsored health insurance was not available (Testimony of Appellant).
5. From March to November, Appellant worked about 35 hours per week and employer sponsored health insurance was not available until Appellant had worked for one year (Testimony of Appellant).
6. Appellant was unemployed during November and December 2019 (Testimony of Appellant).
7. Appellant did not apply for government subsidized health insurance in 2019 (Testimony of Appellant).
8. Appellant struggled financially and was unable to pay for some basic expenses in 2019 (Testimony of Appellant).

9. Appellant lived with a family member which makes Appellant's expenses less (Testimony of Appellant).
10. During 2019, Appellant had the following expenses for basic necessities: telephone \$100; food \$650; supplies \$433; clothing \$100; car payment \$170; car insurance \$92; gasoline \$216; laundry \$87. Appellant's expense for necessities were \$1,848.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
12. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$22,183 could afford to pay \$53 per month for private insurance. According to Table 4, Appellant, aged 42 and living in Hampshire County could have purchased private insurance for \$275 per month.
13. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
14. Appellant, earning less than \$36,420 would have been eligible for government subsidized health insurance (Schedule HC for 2019).
15. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
17. Appellant filed an Appeal on February 26, 2020 stating that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibits 3 and 4).

## **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 2019, 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.

Appellant had several jobs in 2019 and also had times of unemployment. Appellant was not eligible for employer sponsored health insurance. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would have been eligible for government subsidized health insurance. 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 to pay the monthly bills during 2019. Appellant had monthly expenses of \$1,848. Appellant's pre-tax income was \$1,849 per month. Purchasing health insurance would have caused a serious deprivation of

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

I find the penalty assessed against Appellant for 2019 should be waived in its entirety.

**Appellant should note that this decision is based upon the facts as I have found them for 2019 and that such a decision may not be made in the future if Appellant fails to have health insurance.**

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

**ADDENDUM**

**Appellant is encouraged to apply for subsidized health insurance from the Health Connector if Appellant does not have access to employer sponsored health insurance.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-94

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** May 20, 2020  
**Decision Date:** June 9, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellants appeared at the hearing, which was held by telephone, on May 20, 2020. The procedures to be followed during the hearing were reviewed with Appellants. Appellants were sworn in. Exhibits were marked and admitted in evidence with no objection from Appellants. Appellants testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated April 17, 2020  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019  
Exhibit 3: Notice of Appeal, dated March 3, 2020  
Exhibit 4: Tax Penalty Appeal for 2017  
Exhibit 5: Tax Penalty Appeal for 2018

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 40 and 47 years old in 2019 and filed a 2019 Massachusetts tax return as married filing jointly, with two dependents claimed (Exhibit 2).
2. Appellants lived in Worcester County, MA in 2019 (Exhibit 2).
3. Appellants' Adjusted Gross Income for 2019 was \$58,695.00 (Exhibit 2).
4. During 2019, employer sponsored health insurance was not available for either Appellant (Testimony of Appellants).
5. Appellants looked for health insurance through the Health Connector but did not apply due to the cost (Testimony of Appellants).
6. Appellants struggled to pay for basic expenses in 2019 (Testimony of Appellants).
7. Appellants did not have health insurance for all of 2019 (Testimony of Appellants and Exhibit 2).
8. Appellants were each assessed a penalty for twelve months for 2019 (Exhibit 2).

9. Appellants filed a hardship appeal on March 3, 2020 (Exhibit 3).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
11. According to Table 3 of Schedule HC for 2019 a married couple filing jointly, with two dependents claimed and with a Federal Adjusted Gross Income of \$58,695 could afford to pay \$286 per month for health insurance. According to Table 4, Appellants, ages 40 and 47 and living in Worcester County, could have purchased private insurance for \$855 per month. Private insurance was not considered affordable for Appellants in 2019.
12. According to Table 2 of Schedule HC for 2019, Appellants, earning less than \$75,300 would have met the income eligibility guidelines for government subsidized insurance.
13. During 2019, Appellants had the following basic expenses: mortgage \$1,485; utilities \$295; phone \$135; food \$1,400; clothing \$100; car payments \$550; car insurance \$185; gasoline \$900. The total for basic expenses was \$5,050 per month.
14. Appellants were enrolled in health insurance beginning in 2020 (Testimony of Appellants).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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 2019, 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 have 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 Appellants before we consider whether Appellants suffered a financial hardship that would have caused Appellants to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2019, employer sponsored insurance was not available to Appellants. Appellants were considered to be income eligible for government subsidized health insurance. See Schedule HC for Healthcare, Table 2 and Testimony of Appellants, which I find to be credible. Since Appellants potentially had access to affordable insurance, we need to consider whether Appellants experienced a financial hardship as defined by 956 CMR 6.08.

Appellants struggled financially in 2019. Appellants’ expenses for necessities were \$5,050 per month and Appellants’ income was \$4,891 per month. I find that for 2019, 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 Appellants for 2019 should be waived in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12/12

Number of Months Assessed: 0/0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-96

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** May 20, 2020  
**Decision Date:** June 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 May 20, 2020. A duly sworn interpreter was present. 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, dated April 17, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 2, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 27 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Suffolk County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$49,125 (Exhibit 2).
4. Appellant worked and employer sponsored health insurance was not available (Testimony of Appellant).
5. Appellant called the Health Connector looking for health insurance. Appellant did not receive the information and did not call again (Testimony of Appellant).
6. During 2019, Appellant had the following expenses for basic necessities: rent \$1,200; utilities \$200; telephone \$92; food \$867; clothing \$167; car insurance \$158; gasoline \$152; medical \$50; schooling \$69. Appellant's expense for necessities were \$2,955. In addition to the monthly expenses, Appellant purchased a car for \$18,300 in 2019.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$49,125 could afford to pay \$328 per month for private insurance. According to Table 4, Appellant, aged 27 and living in Suffolk County could have purchased private insurance for \$257 per month.

9. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).

10. Appellant, earning more than \$36,420 would not have been eligible for government subsidized health insurance (Schedule HC for 2019).

11. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).

12. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).

13. Appellant filed a hardship appeal on March 2, 2020 (Exhibit 3).

14. Appellant began coverage under a Health Connector plan in early 2020 (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 2019, 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 financial hardship. See 956 CMR 6.

Appellant did not have access to employer sponsored health insurance. According to Tables 3 and 4 of Massachusetts Schedule HC 2019, Appellant was deemed to be able to afford private health insurance. 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 2019, Appellant’s monthly expenses were \$2,955. Additionally, Appellant purchased a car in 2019 for \$18,300. Although Appellant made one call to the Health Connector, Appellant did not pursue the private health insurance due to the living expenses and purchase of a car. Given Appellant’s circumstances and since Appellant began health insurance in 2020, I will waive the penalty for 2019. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08.

I find the penalty assessed against Appellant for 2019 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

### **ADDENDUM**

**Appellant should note that this decision is based upon the facts as I have found them for 2019 and that such a decision may not be made in the future if Appellant fails to have health insurance in the future.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-97

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** May 20, 2020

**Decision Date:** June 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**

Appellant appeared at the hearing, which was held by telephone, on May 20, 2020. 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, dated April 17, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Appeal dated March 2, 2020

Exhibit 4: Statement and documents in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 40 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Barnstable County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$68,816 (Exhibit 2).
4. Appellant's Massachusetts tax return indicated that Appellant did not have insurance for twelve months (Exhibit 2).
5. Appellant was assessed a penalty for twelve months for 2019 (Exhibit 2).
6. Appellant filed an appeal, claiming that Appellant was covered by employer sponsored health insurance for the entire year. Appellant's appeal stated that Appellant must have checked the wrong box (Exhibit 3).
7. Appellant worked at two different jobs and was covered by health insurance in both jobs (Exhibit 4 and Testimony of Appellant).
8. Appellant was covered by health insurance that met Massachusetts credible coverage standards for the entire year of 2019 (Exhibit 4 and 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 2019, 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 (1).

During 2019 Appellant was covered by health insurance that met the Massachusetts minimum creditable coverage standards for the entire year. See Exhibit 4 and Testimony of Appellant, which I find to be credible.

I find the penalty should be waived in its entirety for 2019.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

**OR**

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-98

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 21, 2020

**Decision Date:** June 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 May 21, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellants on March 4, 2020, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 21 in December 2019 and their Spouse, age 28 in July 2019 filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$44,529 (Exhibit 2 and Appellant Testimony).
4. The Appellants did not have insurance for any months of tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellants have each been assessed a twelve-month tax penalty for 2019. The Appellants filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple, with no dependents claimed, with an annual adjusted gross income of \$44,529 could afford to pay \$273 per month for health insurance. In accordance with Table 4, the Appellants, with one person age 28, living in Middlesex County, could have purchased private insurance for \$514 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.
8. The Appellant testified credibly that their employer did offer insurance, but the monthly premium was more than \$500 per month and they could not afford to pay that much (Appellant Testimony).
9. The Appellants would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$49,380 for a household of two persons in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that their Spouse is not a U.S. citizen. For the first nine months of tax year 2019 the Appellant was the only source of income for the household. The Appellant Spouse did not obtain an authorization to work in September 2019. The Appellant explained that between attorney fees, the immigration application, and required medical examinations, the couple spent \$6,535 to obtain proper documents to allow the Appellant Spouse to work. Because of these expenses and the monthly living expenses, health insurance was not affordable for the Appellant and their Spouse (Exhibit 3 and Appellant Testimony).
11. The Appellant's 2019 monthly expenses included: rent-\$1,600; electricity- \$50; telephone-\$106; T-passes \$180; internet-\$60; food-\$542; and student loan-\$54 (Exhibit 3 and Appellant Testimony).
12. The Appellant received two shut off notices from Ever Source in tax year 2019 (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant and their Spouse did not have health insurance for any months in tax year 2019. The Appellants have each been assessed a twelve-month penalty. The Appellants assert that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must

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

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$44,529 could afford to pay \$273 per month for health insurance. According to Table 4, the Appellants, with one person age 28, living in Middlesex County, could have purchased a private insurance plan for \$514 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellants in tax year 2019.

While the Appellant's employer did offer health insurance, the monthly cost in excess of \$500 is more than the \$273 deemed affordable for the Appellants in accordance with Table 3 of Schedule HC for 2019. The Appellants did not have access to affordable employer sponsored health insurance in 2019. The Appellants would have been eligible for ConnectorCare coverage based upon the Appellants' income which was less than \$49,380 for their family of two. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellants in 2019, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was the sole source of income for the household during the period of January through September 2019. The Appellant Spouse is not a U.S. citizen. The Appellants spent a total of \$6,535 for attorney fees, application materials and required medical examinations for the Appellant Spouse to obtain the status necessary to legally remain and work in the U.S. In addition to these expenses, the couple verified substantial monthly living expenses and testified credibly that they struggled to meet these expenses. The Appellants received several utility shut off notices. The Appellants have demonstrated that the cost of purchasing health insurance would have caused the Appellants to experience a significant financial hardship. The twelve-month penalty for the Appellant and their Spouse is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-99

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 21, 2020

**Decision Date:** June 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 May 21, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on February 28, 2020, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 40 in October 2019 and their Spouse, age 34 in July 2019 filed their Federal Income Tax return as a married couple with three dependents claimed (Exhibit 2).
2. The Appellants lived in Plymouth County, MA in 2019 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$84,554 (Exhibit 2 and Appellant Testimony).
4. The Appellants did not have insurance for the months of March and June through December in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellants have each been assessed a four-month tax penalty for 2019. The Appellants filed an appeal of the assessment in February 2020 (Exhibits 2, 3 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple, with three dependents claimed, with an annual adjusted gross income of \$84,554 could afford to pay \$564 per month for health insurance. In accordance with Table 4, the Appellants, with one person age 40, living in Plymouth County, could have purchased private insurance for \$768 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellants would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$88,260 for a household of five persons in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's 2019 monthly expenses included: mortgage-\$2,050; utilities- \$420; two cell telephones-\$300; two car notes totaling \$795; car insurance-\$275; gasoline- \$1,192; internet-\$100; food-\$867; and credit card payments of \$800. The Appellant also received a medical bill for \$250 (Exhibit 3 and Appellant Testimony).
11. The Appellant testified that their gasoline expenses are high because their work involves a great deal of travel. The Appellant also testified that they did have health insurance through the Health Connector for a few months in 2019 but were not able to pay the monthly premiums due to their high living expenses. The Appellant explained that their home is heated with electricity and they got behind in their payments. The Utility company required them to pay \$420 per month to avoid having their heat and lights shut off. The Appellant said that they could not continue to pay the health insurance premium and meet their monthly living expenses. The Appellant's credible testimony is supported by copies of three utility shut off notices. (Exhibit 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant and their Spouse did not have health insurance for eight months in tax year 2019. The Appellants have each been assessed a four-month penalty. The Appellants assert that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with three dependents claimed with an adjusted gross income of \$84,554 could afford to pay \$564 per month for health insurance. According to Table 4, the Appellants, with one person age 40, living in Plymouth County, could have purchased a private insurance plan for \$768 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellants in tax year 2019.

The Appellants did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellants' income which was less than \$88,260 for their family of five persons. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. The Appellants did in fact have ConnectorCare coverage for four months in tax year 2019. Since affordable insurance was available to the Appellants in 2019, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant verified substantial monthly living expenses and testified credibly that they struggled to meet these expenses. The Appellants received several utility shut off notices and were required to pay the utility company \$420 per month to avoid having their service shut off. The Appellant's job requires significant travel and the Appellant's car expenses to maintain employment were also high. The Appellants have demonstrated that the cost of purchasing health insurance would have caused the Appellants to experience a significant financial hardship. The four-month penalty for the Appellant and their Spouse is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

Appellant Spouse:            Number of Months Appealed:   4   Number of Months Assessed:   0  

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

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

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

Cc:     Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-105

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** May 26, 2020  
**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/2/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (4 PP dated 3/2/20).
- Exhibit 2(b) Appellant's Supporting Documentation submitted with Appeal (2 PP dated 4/5/19).
- Exhibit 3: Notice of Hearing dated April 21, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 30 in 2019, lived in Berkshire County, and had no dependents. (Appellant's Testimony, Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$28,298 (Exhibit 1).
3. Appellant testified she moved to Massachusetts from California in July 2019. (Appellant's Testimony).
4. Appellant testified she was insured when she resided in California through her employer. (Appellant's Testimony).
5. Appellant testified she became employed in Massachusetts in August 2019. (Appellant's Testimony).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

6. Appellant testified her new employer had a three (3) month waiting period prior to enrolling in employer health insurance. (Appellant's Testimony).
7. Appellant testified was terminated from her employment in November 2019 prior to the time she was able to obtain employer health insurance. (Appellant's Testimony).
8. Appellant then obtained a part time job that did not offer health insurance. (Appellant's Testimony).
9. Appellant did not know that Massachusetts had a mandate tax penalty. (Appellant's Testimony).
10. Appellant is in the process of attempting to obtain MassHealth. (Appellant's Testimony).
11. Appellant had the following monthly expenses for necessities in 2019: Cell Phone \$65, Car Insurance \$75, Credit Cards \$200, Food/Incidentals: \$400: totaling \$740 /month. (Appellant's Testimony).
12. The Appellant testified that she has been collecting unemployment in 2020, she is now currently working part time which has reduced her overall income and that she would be unable to afford a penalty. (Appellant's Testimony).
13. Appellant has been assessed a tax penalty for three (3) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
14. According to Table 3 Appellant could have afforded \$99.04 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for herself for \$364 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) claiming: Other. During her testimony, the Appellant raised testimony that she moved to Massachusetts in July 2019 from California.

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment,

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$28,298.00 in 2019 and could have afforded \$99.04 per month to purchase affordable insurance. According to Table 4, Appellant, age 51 and living in Berkshire County during the time she was being penalized for not having insurance, could have purchased insurance for \$364.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant had access to insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that she had left her employment in California where she had been insured. She moved to Massachusetts in July 2019 and began employment in August. The Appellant credibly testified her new employer had a three (3) month waiting period prior to enrollment in employer health insurance. The Appellant also credibly testified she did not know that Massachusetts had an individual mandate penalty. The Appellant credibly testified was terminated from her employment in November 2019 prior to the time she was able to obtain employer health insurance. Appellant then obtained a part time job that did not offer health insurance. (Appellant's Testimony).

The Appellant credibly testified that she had the following monthly expenses for necessities in 2019 Cell Phone \$65, Car Insurance \$75, Credit Cards \$200, Food/Incidentals: \$400: totaling \$740 /month. The Appellant credibly testified that she has been collecting unemployment in 2020, that she is now currently working part time which has reduced her overall income and that she would be unable to afford a penalty.

Based on the foregoing, it is concluded that the Appellant's physical address and residence was in California until July 2019. The Appellant expected to obtain health insurance in November but was terminated prior to the end of the employer waiting period and lost most of her income, precluding her from purchasing a government sponsored plan. Therefore, based upon the totality of the evidence, it is concluded that the Appellant was exempt from the individual mandate and her request for a waiver from the penalty is granted. The Appellant's penalty is, therefore, waived.

Where the Appellant had lost her full-time job at the time she was being penalized for not having insurance, it is concluded that the Appellant established through substantial and credible evidence that during 2019 other circumstances she demonstrated that she experienced other grounds within the meaning of 956 CMR 6.08 (3) that she could not afford to purchase health insurance that met the minimum credible standards.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.



FINAL APPEAL DECISION: PA19-106

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

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

**Hearing Date:** May 26, 2020

**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/2/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (2 PP dated 3/2/20).
- Exhibit 2(b) Appellant's Supporting Documentation showing final utility notice (3 PP dated 12/4/19).
- Exhibit 3: Notice of Hearing dated April 21, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 40 in 2019 and lived in Essex County. (Testimony, Exhibit 1).
2. The Appellant did not have health insurance in 2019. (Testimony, Exhibit 1).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$45,618 (Exhibit 1).
4. The Appellant testified her Fiancé died in May 2019 and she had to take on the responsibility of the household bills as well as expenses of her Fiancé's 18-year-old child. (Appellant's Testimony, Exhibits 2(a) and 2(b)).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The Appellant testified her hourly compensation was \$22/hour, her net take home pay was approximately \$670 a week, and that she missed time from work during the time she was caring for her Fiancé. (Appellant's Testimony).
6. The Appellant testified she worked full time and that her employer offered health insurance but the \$500 a month premium was unaffordable. (Appellant's Testimony).
7. The Appellant did not investigate her health insurance options through the ConnectorCare in 2019. (Appellant's Testimony).
8. The Appellant has not enrolled in health insurance in 2020. (Appellant's Testimony).
9. The Appellant testified she was behind \$890 Dollars and was on a payment plan for her utility account. (Exhibit 2 (b)).
10. The Appellant testified she was unable to make the payment plan and the account was transferred out of her name prior to it being shutoff. (Appellant's Testimony).
11. The Appellant had the following monthly expenses for necessities in 2019: Rent: \$850, Utilities: \$300, Food: \$200, Car Payment: \$300, Car Insurance \$200, Gas: \$200, Cell Phone \$75, and Incidentals/Clothes \$150, totaling \$2,275.
12. The Appellant was laid off for 1.5 months in 2020 during the Covid 19 and was recently rehired.
13. The Appellant is attempting to obtain health insurance through her employer.
14. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
15. According to Table 3, the Appellant could have afforded \$288.91 per month for health insurance in 2019. According to Table 4, the Appellant could have purchased insurance for herself for \$306 per month.
16. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to her during 2019 because 1) she received a shut-off notice, was shut off, or was refused delivery of essential utilities; and 2) she incurred or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire. The appellant did not have insurance from January through December. (Exhibit 1).

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

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

The evidence provided by the appellant established that her income for 2019, \$45,618.00, was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$45,618.00 in 2019 and could have afforded \$288.91 per month to purchase affordable insurance. According to Table 4, Appellant, age 40 and living in Essex County during the time she was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance once he became eligible to enroll in 2019. The employee testified that the cost of an individual plan was \$500.00 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the Appellant credibly testified that the monthly cost for an individual plan through the appellant’s employer was \$500.00. That cost is more than 9.86 percent of the appellant’s projected household MAGI for 2019 (i.e.—9.86 percent of \$45,618.00 is \$4,497.33 or \$374.82/month). Hence, since the cost of employer insurance is more than \$374.82/month, she is not considered to have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Where the Appellant did not have access to insurance through the ConnectorCare and could not afford full rate insurance on the market, or Employer Sponsored Insurance, the Appellant is not subject to a penalty. Notwithstanding this, the Appellant’s also adduced testimony and documentation regarding the shutoff notice regarding the arrears to her utility pursuant to 956 CMR 6.08(1)(b).



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-107

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

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

**Hearing Date:** May 26, 2020

**Decision Date:** June 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 May 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/2/2020. (2 PP).
- Exhibit 3: Notice of Hearing dated April 21, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 42 in 2019, lived in Middlesex County, and had no dependents. (Testimony, Exhibit 1).
2. The Appellant did not have health insurance in 2019. (Testimony, Exhibit 1).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$36,263 (Exhibit 1).
4. The Appellant testified he is a landscaper and his work is seasonal. (Testimony).
5. The Appellant testified he previously had MassHealth. (Appellant's Testimony, Exhibits 2(a) and 2(b)).
6. The Appellant testified he attempted to apply for MassHealth in person, but was unable to do so because of the wait. (Testimony).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

7. The Appellant testified because his job was seasonal and he did not have access to employer health insurance. (Testimony).
8. The Appellant is not computer literate and was not able to investigate his health insurance options through the ConnectorCare in 2019. (Testimony).
9. The Appellant has not enrolled in health insurance in 2020. (Testimony).
10. The Appellant testified his annual net take home pay was approximately \$25,000 Dollars. (Testimony).
11. The Appellant had the following monthly expenses for necessities in 2019: Rent: \$600, Utilities: \$90-\$150, Food: \$300, Credit Card \$200, totaling \$1,250. (Testimony).
12. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
13. According to Table 3, the Appellant could have afforded \$151.09 per month for health insurance in 2019. According to Table 4, the Appellant could have purchased insurance for \$279 per month.
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

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

The Appellant submitted a statement of grounds for appeal (Ex. 2), claiming Other: that he was unable to obtain government subsidized insurance even though his income qualified him. The appellant did not have insurance from January through December.

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$36,263.00 in 2019 and could have afforded \$151.09 per month to purchase affordable insurance. According to Table 4, Appellant, age 42 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$279.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant had access to insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019 Rent: \$600, Utilities: \$90-\$150, Food: \$300, Credit Card \$200, totaling \$1,250.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to completely waive his penalty for the months in question. The Appellant testified that in 2019 he incurred basic monthly expenses of approximately \$1,250.00. Those expenses were less than his regular monthly net take home pay of approximately \$2,083.33/month (\$25,000 annual net/12 months), thereby making a private health insurance premium of \$151.09/month seemingly manageable. I also find the Appellant did not adduce any testimony or evidence in support of other grounds as defined by law, as he chose on his Appeal, that he was unable to obtain government subsidized insurance even though his income qualified him.

Notwithstanding the foregoing analysis, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve-month assessment.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

## **PENALTY ASSESSED**

Number of Months Appealed:  12  Number of Months Assessed:  4

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

## **ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-108

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

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

**Hearing Date:** May 26, 2020

**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on February 26, 2020. (3PP).
- Exhibit 3: Notice of Hearing dated April 21, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 21 in 2019, lived in Essex County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's parents were deceased and he testified he was homeless since 2016, as well as for part of the year in 2019, living with friends. (Exhibits 2, Testimony of Appellant).
3. Appellant testified he became employed in March 2019 and his hours varied between full time and a lesser number of hours. (Testimony of Appellant).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$30,754 (Exhibit 1).
5. Appellant was able to obtain housing in July 2019. (Testimony of Appellant).

Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

6. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant was able to obtain Employer Health Insurance in 2020 after he had accumulated enough hours to qualify. (Testimony of Appellant).
8. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$1,100, Car Insurance \$130, Food \$240, Gas \$120, totaling \$1,590. (Testimony of Appellant).
9. According to Table 3 Appellant could have afforded \$127.31 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

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

The Appellant submit grounds with his appeal that during 2019: 1) he was homeless, 2) that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, and 3) that he incurred an unexpected natural or human caused event causing substantial household or personal damage to him. (Exhibit 2).

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$30,574 in 2019 and could have afforded \$127.39 per month. According to Table 4, Appellant, age 21 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019). Employer Sponsored Insurance (“ESI”) was also not available to the Appellant as he credibly testified that his work hours varied and that he had to wait until after he had accumulated enough hours to become



[www.mahealthconnector.org](http://www.mahealthconnector.org) or by contacting customer service at 1-877-623-6765. The open enrollment period runs from November 1, 2019-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-109

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

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

**Hearing Date:** May 26, 2020

**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/2/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (2 PP dated 3/2/20).
- Exhibit 2(b) Appellant's Supporting Documentation showing final utility notice (3 PP dated 4/23/19).
- Exhibit 3: Notice of Hearing dated April 21, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 34 in 2019, lived in Worcester County, and had one (1) dependent. (Testimony, Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2019 was \$37,135 (Exhibit 1).
3. The Appellant testified her Mother died in June 2019 and that she and her Sister took care of their Mother which necessitated reducing her hours at work. (Appellant's Testimony, Exhibits 2(a) and 2(b)).
4. The Appellant testified she normally worked 40 hours per week at an hourly compensation of \$17.50/hour, and that her hours were reduced to 25-30 hours per week during the time she cared for her Mother. (Appellant's Testimony).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The Appellant testified she had health insurance through the Connector, but the premiums increased from \$44 to \$380.63 because her 18-year-old daughter's income was attributed to the household income. (Appellant's Testimony, Exhibit 2(b)).
6. The Appellant did not have an opportunity to report or adjust her income during the time she was caring for her Mother. (Appellant's Testimony).
7. The Appellant testified her Daughter was covered under MassHealth. (Appellant's Testimony).
8. The Appellant re-enrolled in the Connector in late 2019 and is now covered with a premium of approximately \$130/month. (Appellant's Testimony).
9. The Appellant had the following monthly expenses for necessities in 2019: Rent: \$747, Utilities: \$160, Food: \$400, Car Payment: \$288, Car Insurance \$130, Gas: \$240, Cell Phone \$44, Cable/Internet: \$35, totaling \$ 2,044.
10. The Appellant also had out of pocket medical expenses during the time she was uninsured in the amount of \$220.
11. The Appellant is currently insured through the HealthConnector. (Appellant's Testimony).
12. The Appellant's Employer does not offer health insurance. (Appellant's Testimony).
13. The Appellant has been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
14. According to Table 3, the Appellant could have afforded \$191.86 per month for health insurance in 2019. According to Table 4, the Appellant could have purchased insurance for herself for \$279 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to her during 2019 because she incurred significant unexpected increases in essential living expenses due to the sudden responsibility for providing full care for of an aging parent and the death of a family member. The appellant did not have insurance from January through March, and again from May through November.

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

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$37,135.00 in 2019 and could have afforded \$191.86 per month to purchase affordable insurance. According to Table 4, Appellant, age 34 and living in Worcester County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$279.00 per month. (The Appellant testified her Daughter was covered under MassHealth). Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019). The Appellant testified the Employer Insurance was not offered.

Where the Appellant had access to insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019: Rent: \$747, Utilities: \$160, Food: \$400, Car Payment: \$288, Car Insurance \$130, Gas: \$240, Cell Phone \$44, Cable/Internet: \$35, totaling \$2,044.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship during the time she was caring for her mother as defined by law so as to completely waive her penalty for the months in question. The appellant credibly testified that in 2019 she incurred basic monthly expenses of approximately \$2,044.00. Those expenses were more than her regular monthly during the time when her hours and income were reduced, thereby making a private health insurance premium of \$191.86/month unmanageable.

It is concluded that the Appellant established through substantial and credible evidence that during 2019 the other circumstances she experienced were within the meaning of 956 CMR 6.08(1)(d)2, (e), which allows consideration of these financial issues and affordability raised by the appellant on appeal.

The Appellant's penalty is, therefore, waived.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-128

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 29, 2020

**Decision Date:** June 2, 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 May 29, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 21, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated March 5, 2020, with attachments.
- Exhibit 4: Final Appeal Decision of 2016 Tax Penalty dated September 4, 2019.
- Exhibit 5: Final Appeal Decision of 2017 Tax Penalty dated June 7, 2019.
- Exhibit 6: Final Appeal Decision of 2018 Tax Penalty dated September 3, 2019.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 45, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$41,764 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 and is being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in March 2020 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$41,764 could afford to pay \$259 per month for health insurance. In accordance with Table 4, the Appellant age 45, living in Middlesex County, could have purchased private insurance for \$350 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
8. The Appellant testified that their employer has promised for several years to provide health insurance, but this has never happened (Exhibit 3 and Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified to having substantial living expenses in tax year 2019. The Appellant struggled to meet these expenses with their limited income. I found the Appellant credible (Exhibit 3 and Appellant Testimony).
11. In tax year 2019 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (Exhibits 2, 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their 2019 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2019 and consequently has been assessed a twelve-month penalty. The Appellant has appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$41,764 could afford to pay \$259 per month for health insurance. In accordance with Table 4, the Appellant, age 45, living in Middlesex County, could have purchased private insurance for \$350 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer sponsored insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$41,764 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019.

The Appellant had no affordable health insurance available to them in tax year 2019 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2019.

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-132

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 21, 2020

**Decision Date:** June 2, 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 May 29, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 21, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 8, 2020, with attachments.
- Exhibit 4: Health Connector Appeals Unit Open Record form dated May 29, 2020.
- Exhibit 5: Additional payroll documents submitted by the Appellant on June 1, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 30 in August 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part-year resident of MA, living in Bristol County during the period of January 1 through October 26 in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$27,676 (Exhibit 2 and Appellant Testimony).
4. The Appellant did not have insurance for the months of January through October in tax year 2019 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a six-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$27,676 could afford to pay \$97 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Bristol County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance while living in MA in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that the information in the Schedule HC does not accurately reflect their circumstances for tax year 2019. The Appellant explained that they lived with their parents in MA during the period of January through October 26, 2019 and had no income during this period. The Appellant said that they could not afford health insurance. The Appellant said that they moved to Oregon and began working in November. The Appellant said that \$6,000 of the \$27,676 was a relocation payment and the remainder of the income was earned in the months of November and December 2019 when the Appellant was no longer living in MA. The Appellant confirmed that they filed tax returns in MA and the state of Oregon. I found the Appellant to be credible (Appellant Testimony).
11. The record was left open until June 15, 2020 to allow the Appellant to submit additional information (Exhibit 5).
12. On June 1, 2019, the Appellant submitted payroll records verifying that the Appellant's income of \$27,676, including the relocation payment of \$6,000, was received in November and December of tax year 2019 when the Appellant was not a MA resident (Exhibit 5).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant was a part year resident of MA living in Bristol County during the period of January 1 through October 26 in tax year 2019. The Appellant did not have health insurance during this period and consequently has been assessed a six-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$27,676 could afford to pay \$97 per month for health insurance. According to Table 4, the Appellant, age 30, living in Bristol County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellants in tax year 2019.

The Appellant did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$36,420. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that during the period of January through October they were living with their parents and had no income. The Appellant said that their parents provided for their day to day living expenses and the Appellant had no money to purchase health insurance. The Appellant verified that the income they received in tax year 2019 was earned during the months of November and December 2019 when the Appellant was no longer a MA resident. The Appellant has demonstrated that the cost of purchasing health insurance during the period of January through October 2019 would have caused the Appellant to experience a significant financial hardship. The six-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-133

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** May 29, 2020

**Decision Date:** June 2, 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 May 29, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 21, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 6, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part-year resident during the period of June 20, 2019 through December 31, 2019 and lived in Bristol County, MA (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$24,572 (Exhibit 2).
4. According to the information on the Appellant's Schedule HC for tax year 2019, the Appellant did not have insurance for the seven-month period they lived in MA. The Appellant has been assessed a four-month tax penalty for 2019.
5. The Appellant filed an appeal of the assessment in April 2020 (Exhibits 3, 4).

6. The Appellant testified that they made a mistake when completing their tax return. The Appellant explained that prior to coming to MA they were living in CT. The Appellant said that they relocated to MA for employment and their parent applied for MassHealth on their behalf. The Appellant said that they moved back to CT and did not receive the tax forms prior to completing their 2019 return (Exhibit 4 and Appellant Testimony).
7. The Appellant submitted a copy of Form 1095-B issued by the Massachusetts Executive Office of Health and Human Services. The Appellant had MassHealth during the months of June through December in tax year 2019 (Exhibit 4 and Appellant Testimony).

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

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

The Appellant filed their tax year 2019 return as a single person with no dependents. The Appellant was a part year resident living in Bristol county during the period of June 20, 2019- December 31, 2019. Based on the information from the Appellant’s’ 2019 Schedule HC, it appeared that the Appellant did not have health insurance that met Massachusetts minimum creditable coverage requirements in tax year 2019. Consequently, the Appellant has been assessed a four-month penalty. The Appellant submitted an appeal request with a copy of their federal Form 1095-B from the Massachusetts Executive Office of Health and Human Services. This document verifies the Appellant’s credible testimony that they had health insurance through MassHealth for the period of June through December in tax year 2019. The Appellant should not be subject to a tax penalty for tax year 2019. The Appellant’s four-month penalty is therefore waived.

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

### **PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_4\_\_\_\_ Number of Months Assessed: \_\_0\_\_\_\_

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-146

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** June 5, 2020

**Decision Date:** June 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 June 5, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 9, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 25 years old in March 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$30,860 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$30,860 could afford to pay \$129 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Plymouth County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant.
8. The Appellant testified that their employer did provide health insurance, but they heard from other employees that the cost was high. The Appellant said they did not ask what the cost of the insurance was. This testimony is insufficient to show the Appellant did not have access to affordable employer sponsored health insurance (Appellant Testimony).
9. If the Appellant did not have access to affordable employer sponsored health insurance, the Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).
10. The Appellant testified that they tried to sign up for health insurance, but their I.D. expired. The Appellant said that their income fluctuates. The Appellant was asked about their monthly living expenses and testified that the expenses fluctuate. When asked, the Appellant said that they live in a shared housing arrangement and the rent and utility costs were \$800 for six months and \$900 for six months. When asked about other expenses the Appellant said their telephone is under \$100, they walk or ride a bike to work and have no transportation expenses. The Appellant testified that they have food allergies and spend \$300 weekly on food. The Appellant was reluctant to offer testimony and I did not find the Appellant to be credible (Appellant Testimony).
11. The Appellant did not submit any evidence that they fell behind in their rent or utility payments or incurred any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Exhibit 3, Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did not have health insurance for any months in tax year 2019 and has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing financial hardship and lack of affordable insurance.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$30,860 could afford to pay \$129 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Plymouth County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant testified that their employer did offer employer sponsored health insurance, but the Appellant did not ask their employer what the monthly cost was for tax year 2019. The Appellant said other employees said it was expensive. This testimony is insufficient to determine definitively that the Appellant did not have access to affordable employer sponsored health insurance in 2019.

If the Appellant's employer sponsored health insurance were not affordable, the Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant's average monthly income was \$2,572. The Appellant lived in a shared housing arrangement. The Appellant was reluctant to offer testimony regarding their expenses. The Appellant offered some responses to direct questions, but the Appellant's statements were inconsistent and therefore not particularly credible. The Appellant did not submit any evidence that they faced eviction, received utility shut off notices or experienced a family or other emergency that resulted in unexpected expenses in tax year 2019. Given that the Appellant had access to a government sponsored health insurance program, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-147

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** June 5, 2020

**Decision Date:** June 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 June 5, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 8, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 28 years old in July 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$31,646 (Exhibit 2 and Appellant Testimony).
4. The Appellant but did not have health insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 4 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$31,646 could afford to pay \$132 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that their employer offered health insurance, but the cost was more than \$140 per pay period for the plan that allowed the Appellant coverage for her treating sources (Exhibit 4 and Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a single person in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they had been receiving MassHealth prior to taking their per diem job in January 2019. The Appellant explained that they have a history of significant mental health problems and tried finding an affordable health plan that would allow them to keep their long-term therapist. The Appellant explained that they have moved nine times in seven years and did not get the information on how to enroll in health insurance in a timely manner. By the time the Appellant was able to select a suitable plan, Open Enrollment had ended. The Appellant also testified that they had a suicidal episode in September 2019 and as a result was unemployed for several weeks (Appellant Testimony).
11. The Appellant's 2019 monthly living expenses of \$2,637 included: rent-1,250; car insurance-\$134; gasoline-\$121; telephone-\$125; heat and electricity-\$70; internet-\$15 and food-\$303. The Appellant testified that they could not meet these expenses and afford health insurance. I found the Appellant to be credible (Appellant Testimony).
12. The Appellant received a Shut of Warning Notice from National Grid in January 2020 for arrearages that accrued in 2019 (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their return as a single person with no dependents. The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$31,646 could afford to pay \$132 per month for health insurance. According to Table 4, the Appellant, age 28, living in Suffolk County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant would have been eligible for ConnectorCare coverage in 2019 based upon the Appellant's income which was less than \$36,420. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they had been on MassHealth prior to taking a per diem job in January 2019. The Appellant said that their employer did offer health insurance, but the cost for a plan that would allow them to keep their treating sources was between \$140-\$150 per pay period. The Appellant explained that they have a history of serious mental health issues and was researching affordable health care plans that would allow them to keep seeing their treating sources. The Appellant said that they moved and missed receiving some mail with information on enrollment. The Appellant also said that they had a serious suicidal episode in September 2019 and was unemployed for a period of several weeks. The Appellant verified significant monthly living expenses in tax year 2019. The Appellant received a Shut off Warning Notice from National Grid for arrearages accrued in tax year 2019. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a substantial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-148

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** June 5, 2020

**Decision Date:** June 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 June 5, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 5, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 29 years old in February 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$25,330 (Exhibit 2 and Appellant Testimony).
4. The Appellant but did not have health insurance for the months of August through December in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a two-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$25,330 could afford to pay \$89 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Bristol County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in tax year 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a single person in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that the annual income figure reported on their tax return does not adequately reflect their financial circumstances for all months of tax year 2019. The Appellant explained that their hours at work were reduced in August. The Appellant said that they did have ConnectorCare coverage, but when their bi-weekly income was reduced to about \$300, they could not afford to pay the premium (Appellant Testimony).
11. In 2019 the Appellant lived in a shared housing situation. The Appellant's 2019 monthly living expenses of \$1,996 included: rent-\$200; a truck payment-\$700, truck insurance-\$120; gasoline-\$173; telephone-\$110 and food averaging-\$693. The Appellant testified that their parents helped them meet their living expenses when their income was reduced. I found the Appellant to be credible (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their return as a single person with no dependents. The Appellant did not have health insurance for the months of August through December in tax year 2019. The Appellant has been assessed a two-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through

employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$25,330 could afford to pay \$89 per month for health insurance. According to Table 4, the Appellant, age 29, living in Bristol County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant was eligible for and did receive ConnectorCare coverage during the first seven months of tax year 2019 based upon the Appellant's income which was less than \$36,420. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their annual income figure as reported on their Schedule HC- 2019 does not accurately reflect their financial circumstances for the period of August through December 2019. The Appellant's employer reduced their hours in August and the Appellant's average monthly income was only \$650 for the period of August through December. The Appellant's monthly living expenses exceeded their income during the period of August through December and the Appellant had to rely on their parents to help meet their expenses. Purchasing health insurance, even at a reduced price, would have caused the Appellant to experience a substantial hardship during the period of August through December in tax year 2019. The Appellant's two-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-150

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** June 5, 2020

**Decision Date:** June 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 June 5, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 7, 2020, with attachments.
- Exhibit 4: Final Appeal Decision of the 2017 Tax Penalty dated April 3, 2019.
- Exhibit 5: Final Appeal Decision of the 2015 Tax Penalty dated July 8, 2016.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 34 years old in February 2019. The Appellant filed their Federal Income Tax return as a Head of Household with two dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$44,858 (Exhibit 2 and Appellant Testimony).
4. The Appellant but did not have health insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a Head of Household, with two dependents claimed, with an annual adjusted gross income of \$44,858 could afford to pay \$183 per month for health insurance. In accordance with Table 4, the Appellant, age 34, living in Worcester County, could have purchased private insurance for \$713 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified that their employer did offer health insurance, but the weekly cost of \$200 was not affordable. The Appellant said that they did enroll in the dental plan because the premium was only \$45 monthly (Appellant testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$62,340 for a family of three in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's 2019 monthly living expenses of \$3,173 included: rent-\$1,100; electricity-\$100; telephone-\$120; car loan-\$271; car insurance-\$150; gasoline-\$320; cable/internet-\$150; dental insurance-\$45; food-\$867 and credit card payment-\$50.
11. In tax year 2019 the Appellant received a utility shut off notice (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their return as a Head of Household with two dependents claimed. The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be

determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a Head of Household with two dependents claimed with an adjusted gross income of \$44,858 could afford to pay \$183 per month for health insurance. According to Table 4, the Appellant, age 34, living in Worcester County, could have purchased a private insurance plan for \$713 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$62,340 for their household of three persons. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their monthly living expenses exceeded their monthly after-tax income. The Appellant struggled to meet these expenses and received a utility shut off notice in December 2019. Purchasing health insurance, even at a reduced cost, would have caused the Appellant to experience a substantial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-151

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** June 5, 2020

**Decision Date:** June 11, 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 June 5, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 12, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 35 years old in January 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$73,301 (Exhibit 2 and Appellant Testimony).
4. The Appellant but did not have health insurance for the months of February through August in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 4 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$73,301 could afford to pay \$489 per month for health insurance. In accordance with Table 4, the Appellant, age 35, living in Suffolk County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a single person in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that the annual income figure reported on their tax return does not adequately reflect their financial circumstances for all months of tax year 2019. The Appellant explained that their job as a research assistant ended in December 2018. The Appellant was unemployed for the period of January through May. The Appellant said that they were hired as an independent contractor in June and received their first paycheck in July. The Appellant testified that they became a full-time employee in September and became eligible for health insurance for the months of September through December (Exhibit 2 and Appellant Testimony).
10. The Appellant's 2019 monthly living expenses included: rent-\$600; phone-\$75; cable/internet-\$50; food-\$433 as well as gasoline and car insurance-\$300. The Appellant testified that they were living with a partner and using savings to meet their living expenses during the period of January through June. The Appellant explained that they have student loans of \$250,000 which they deferred while unemployed but the interest on the loans increased by approximately \$300 month during this period. The Appellant said that they did not have a great deal of savings because of these loans and could not afford to purchase health insurance during the period of February through August in 2019. The Appellant's credible testimony is supported by documentary evidence submitted with their appeal (Exhibit 4).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their return as a single person with no dependents. The Appellant did not have health insurance for the months of February through August in tax year 2019. The Appellant has been assessed a four-

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$73,301 could afford to pay \$489 per month for health insurance. According to Table 4, the Appellant, age 35, living in Suffolk County, could have purchased a private insurance plan for \$286 per month. See Schedule HC for 2019. Private insurance was affordable for the Appellant in tax year 2019.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income which was greater than \$36,420. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that their annual income figure as reported on their Schedule HC- 2019 does not accurately reflect their financial circumstances for the period of January through August of tax year 2019. The Appellant's job as a research assistant ended in December 2018. The Appellant was unemployed for the period of January through June and had no source of income during this time. The Appellant was hired as an independent contractor in June and was not employed full time until September. The Appellant lived with their partner and used their savings to meet their monthly living expenses during the period of January through June. The Appellant explained that they have outstanding student loan debt in excess of \$250,000. The Appellant was making substantial payments prior to being unemployed and as a result did not have significant savings to meet their living expenses while unemployed. Purchasing health insurance would have caused the Appellant to experience a substantial hardship during the period of February through August in tax year 2019. The Appellant's four-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

**FINAL HEALTH CONNECTOR APPEAL DECISION COVER SHEET**

**Appeal Number:** PA 19-153

**Hearing Date:** 6/8/20

**Issue: Income**

**Ruling (Check One):**  **Overtured**     **Upheld**

**ORDER**

**Final Appeal Decision For Connector Records - (Check One):**

**Approved**

**Denied**

**Approved in Part/Denied in Part**

**Indicate Reason from List Below** Food

Appeal Reasons			
<input type="checkbox"/> Not Have Self-assessed Penalty	<input type="checkbox"/> Problem Enrolling/Applying	<input type="checkbox"/> Had Insurance	<input type="checkbox"/> Medical/Dental Expenses
<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Thought Had MCC	<input type="checkbox"/> Lived Outside MA	<input type="checkbox"/> Food Deprivation
<input type="checkbox"/> Financial Issues/Not Listed Hardship	<input type="checkbox"/> Not Eligible to Purchase	<input type="checkbox"/> MCC	<input type="checkbox"/> Fire, Flood or Natural Disaster
<input type="checkbox"/> Not Use Health Care	<input type="checkbox"/> Religious Objection	<input type="checkbox"/> Homeless	<input type="checkbox"/> Family Member Death
<input type="checkbox"/> Object Insurance/Mandate	<input type="checkbox"/> No Affordable Option	<input type="checkbox"/> Utilities Shut-off	<input type="checkbox"/> Other
<input type="checkbox"/> Lost Job	<input type="checkbox"/> Not Specified		

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-158

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

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

**Hearing Date:** June 9, 2020

**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on June 9, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.1(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/13/2020. (2 PP).
- Exhibit 2(a): Appellant's Correspondence from Attorney regarding Divorce in Support of Appeal. (1P).
- Exhibit 3: Notice of Hearing dated May 19, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported he was divorced during 2019, was age 35, lived in Essex County, and filed an Amended Return with a Head of Household, Family Size 2. (Testimony, Exhibit 1).
2. The Appellant had health insurance in 2019 through his Ex Wife's Employer Family Plan until his divorce on April 23, 2019. (Testimony, Exhibit 1).
3. The Appellant testified he moved in with his parents after the divorce for affordability reasons. (Testimony).
4. The Appellant testified he has a four (4) year old child who resides with the Appellant's former Spouse. (Testimony).

Ex. 1 is a computer printout that extracts information submitted by the Appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The Appellant testified that as pursuant to the divorce agreement he is paying child support in the amount of \$230/week. (Testimony).
6. The Appellant's Federal Adjusted Gross Income for 2019 was \$ 54,148 (Exhibit 1).
7. The Appellant testified when he was employed in 2019 his net take home pay after deducting the \$230 weekly child support payment was approximately \$479. (Testimony).
8. The Appellant testified it was his understanding that he would be covered through his Ex Wife's Employer health insurance for six (6) months from the divorce on April 23, 2020. (Testimony, Exhibit 2(a)).
9. The Appellant testified he did not have representation during his divorce and the divorce agreement did not address health insurance. (Testimony).
10. The Appellant testified he looked into obtaining employer sponsored insurance (ESI") after his divorce at the cost of approximately \$300/week. (Testimony).
11. The Appellant testified he attempted to enroll in employer coverage in October 2019 but was informed by his Human Resources Department that he was not eligible for open enrollment because he had not enrolled within twenty-eight (28) days from the date of his divorce. (Testimony).
12. The Appellant was able to investigate his health insurance options through the ConnectorCare in 2019 but indicated it was unaffordable. (Testimony).
13. The Appellant has enrolled in MassHealth after being laid off from his employer during the Covid19 pandemic. (Testimony).
14. The Appellant had the following monthly expenses for necessities in 2019: Child Support: \$989: (\$230/week x. 4.3), Household Contribution to Expenses: \$193.50, Transportation Costs: \$430; Dental Work Financing Repayment for Out of Pocket Dental Services: \$187, totaling \$1,799.50. (Testimony).
15. The Appellant has been assessed a tax penalty for five (5) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
16. According to Table 3, the Appellant could have afforded \$336.17 per month for health insurance in 2019. According to Table 4, the Appellant could have purchased insurance for himself for \$286 per month.
17. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2), claiming that during 2019, he incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the sudden responsibility for providing for other family member Other: that he was unable to obtain government subsidized

insurance even though his income qualified him. The appellant did not have insurance from March through December.

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

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. The Appellant testified that he believed he was going to retain coverage under his Ex Wife’s employer family plan for six 6 months post divorce. When he attempted to obtain health insurance from his Employer in October, he testified that he did not have access under his Employer’s open enrollment period because according to his employer he was required to enroll within 28 days after his divorce. The Appellant testified he did not have representation during his divorce and the divorce agreement did not address health insurance.

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$54,148 in 2019 and could have afforded \$336.17 per month to purchase affordable insurance. According to Table 4, Appellant, age 35 who filed an amended return as head of household with a family size of two (2), and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for himself at \$286.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where the Appellant did not have access to insurance through the ConnectorCare program or through his Employer but could have afforded insurance through the individual market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Child Support: \$989; (\$230/week x. 4.3), Household Contributions: \$193.50, Transportation Costs: \$430; Dental Work Financing Repayment for Out of Pocket Dental Services: \$187, totaling \$1,799.50. (Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to completely waive his penalty for the months in question. The Appellant testified that in 2019 he incurred basic monthly expenses of approximately \$1,799.00. Those expenses were less than his regular monthly net take home pay of approximately \$2,059.70/month, thereby making a private health insurance premium of \$336.17/month seemingly unmanageable. It is concluded that the Appellant established



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-161

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

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

**Hearing Date:** June 9, 2020

**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on June 9, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.1(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 11, 2020. (2PP).
- Exhibit 2(a) Appellant's Supporting Documentation-Termination and Final Notices-Electric (2 PP-dated 10/3/19 and 10/17/19).
- Exhibit 3: Notice of Hearing dated May 19, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 29 in 2019, lived in Hampshire County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full-time thirty-five (35) hours a week from January through October and was paid \$14/hour. (Testimony of Appellant).

Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. Appellant testified she could not afford employer health coverage where her employee contribution would have been \$50/week or \$215 per month. (Testimony of Appellant).
4. Appellant testified she did not investigate obtaining purchasing government-sponsored health insurance. (Testimony of Appellant).
5. Appellant testified that she obtained a position with a new employer on or about October 2019 where she was paid \$18/hour.
6. The Appellant new employer offered employer sponsored insurance at \$35/week, or \$150.50/month. (Testimony of Appellant).
7. Appellant testified she had a waiting period to purchase employer sponsored health insurance, but was able to purchase insurance in 2020 and currently is insured. (Testimony of Appellant).
8. Appellant testified she lived with her Sister and her Sister's children. (Testimony of Appellant).
9. Appellant's Federal Adjusted Gross Income for 2019 was \$46,932(Exhibit 1).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant testified that the electricity was shut off in October and again in December for non-payment. (Testimony of Appellant).
12. Appellant testified she needed to borrow money from her parents to restore the electricity. (Testimony of Appellant).
13. Appellant testified she received the notices she submitted with her Appeal for Termination and Final Notice from the Electric Utility Company. (Exhibit 2(a), Testimony of Appellant).
14. Appellant testified she was constantly behind in her rent and was fortunate to have a flexible landlord who worked with her with respect to the rent arrears. (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$800/month, Utilities \$180, Cell Phone \$130, Car Insurance \$120, Food \$200, Credit Cards \$170, Cable/Internet, totaling: \$1,600.
16. According to Table 3 Appellant could have afforded \$ 297.24 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$231.00 per month.
17. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant did submit grounds with her appeal that that the expense of purchasing health insurance was not affordable to her because she experienced a hardship where the appellant received a shut office notice, or was shut off, or was refused the delivery of essential utilities (gas, electric, oil, water, or telephone). The Appellant also testified during the hearing that the expense of purchasing health insurance would have also caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibits 2).

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

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

The evidence provided by the appellant established that her income for 2019, \$46,392.00, was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$46,932 in 2019 and could have afforded \$296.24 per month. According to Table 4, Appellant, age 29 and living in Hampshire County during the time she was being penalized for not having insurance, could have purchased insurance for \$231.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance once she became eligible to enroll in 2019. The Appellant testified that the cost of an individual plan was \$215.00 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for

plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$215.00. That cost is less than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$46,932.00 is \$4,627.50/12 or \$385.62/month). Hence, since the cost of employer insurance is less than \$385.62/month, she is considered to have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Where the Appellant had access to affordable insurance through the individual market and through employer sponsored coverage, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019 Rent \$800/month, Utilities \$180, Cell Phone \$130, Car Insurance \$120, Food \$200, Credit Cards \$170, Cable/Internet, totaling: \$1,600.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would not have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the Appellant's approximate net take pay of \$30,000/12, or \$2,500 per month, would have allowed the Appellant to afford the cost of an ESI premium in the amount of \$215. It is concluded that the Appellant established through substantial and credible evidence that she did not experience a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

Notwithstanding this, the Appellant's also adduced testimony and documentation regarding the notice regarding the arrears to her utility account. Accordingly, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve-month assessment.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

## **PENALTY ASSESSED**

Number of Months Appealed:   12        Number of Months Assessed:   4

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-162

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

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

**Hearing Date:** June 9, 2020

**Decision Date:** June 26, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on June 9, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 11, 2020. (2PP).
- Exhibit 3: Notice of Hearing dated May 19, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 24 in 2019, lived in Suffolk County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant worked as a full-time waitress and was paid \$3.75/hour plus tips. (Exhibits 1, 6, Testimony of Appellant).
3. Appellant testified her Mother died in 2017 and that she had been insured through her Father's union health in 2018.
4. Appellant testified that she lived independently, her Father was a journeyman union employee, and she did not know she did not have coverage under her Father's health insurance in 2019. (Testimony of Appellant).
5. Appellant testified she rented her own apartment in 2019. (Testimony of Appellant).

Ex. 1 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

6. Appellant's Federal Adjusted Gross Income for 2019 was \$23,378(Exhibit 1).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant testified she investigated employer sponsored insurance ("ESI") coverage but the premiums were unaffordable at the cost of approximately \$900/month. (Testimony of Appellant).
9. Appellant testified she investigated a government-sponsored health insurance program, but the premiums were unaffordable at approximately \$325/month. (Testimony of Appellant).
10. Appellant testified her employer restaurant closed in October 2019. (Testimony of Appellant).
11. Appellant testified that with the Covid 19-pandemic she continues to be unemployed.
12. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$1,200/month, Utilities \$300, Cell Phone \$125, Care Insurance \$200, Food/Incidentals \$400, Credit Cards \$250, Cable/Internet \$80, totaling: \$ 2,555.
13. According to Table 3 Appellant could have afforded \$56.50 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

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

The appellant did submit grounds with her appeal that that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibits 2).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we



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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-178

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** June 15, 2020

**Decision Date:** June 24, 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 June 15, 2020, and testified under oath. The hearing record consists of the appellants' testimony and the following documents which were admitted into evidence without their objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC 1

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellants, a married couple, are 22 and 23-years-old and do not have children. In 2019, they resided in Worcester County. They did not have health insurance for any part of 2019. (Testimony, Ex. 2)
2. The appellants got married on April 25, 2019. (Testimony)
3. In 2018, appellant A had insurance under his father's health insurance policy. His father did not agree with his lifestyle and would not permit him to continue to be insured under his plan in 2019. Appellant B had health insurance through MassHealth in 2018, but was unable to continue in 2019 because his mother no longer permitted him to be considered a member of her household. (Testimony)

1

Ex. 2 is a computer printout that extracts information submitted by the appellants on Schedule HC as part of their 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

1

4. The appellants were both employed in 2019, but did not work a sufficient number of hours to be covered by employer health insurance. (Testimony)
5. The appellants investigated their eligibility for MassHealth in 2019 and were denied coverage. They did not consider private health insurance as they did not believe it would have been affordable. (Testimony)
6. During the open enrollment period in November, 2019, the appellants applied for subsidized insurance through the Health Connector and were determined eligible for coverage effective January 1, 2020. At the time of the instant hearing, they remained insured under a couples' plan for which they pay \$133.00/month. (Testimony)
7. The appellants reported an adjusted gross income of \$36,992.00 on their jointly filed 2019 federal tax return, and reported that they were married with no dependents. (Ex. 2)
8. In 2019, the appellants had regular monthly expenses of approximately \$2065.00 for rent which included heat and utilities (\$795.00), internet service (\$60.00), car insurance (\$250.00), cell phones (\$150.00), gasoline (\$140.00), laundry (\$120.00) and food (\$550.00). In addition, they paid approximately \$500.00/month for credit card debt. (Testimony, Ex. 1)

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. They also submitted a letter (Ex.1) with their statement in which they stated in part that they were only making enough money to cover their basic living necessities, and that had they purchased health insurance, they would not have been able to cover their expenses. They further stated that they applied for MassHealth, but were determined ineligible.

The appellants did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellants were uninsured for the entire year, they were assessed and are appealing a penalty of twelve months each.

The appellants testified credibly that they both had health insurance in 2018, but were unable to continue in 2019 due to family decisions about coverage. They testified that they applied for MassHealth, but were determined ineligible. Finally they testified that they applied for subsidized insurance through the Connector in November, 2019, and were determined eligible for coverage effective January 1, 2020.

The evidence provided by the appellants established that their income for 2019, \$36,992.00, was less than 300% of the federal poverty level (FPL), which for 2019 was \$49,380.00 for a two-person family. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with no dependents with a federal adjusted gross income between \$32,921.00 and \$41,150.00 is deemed to be able to afford a monthly premium of \$191.93 (6.20% of \$36,992.00/12). Table 4 of the Premium Schedule indicates that a 21-year-old individual (the age of the younger of the two appellants in 2019) in Hampden County (where the appellants resided in 2019) could have purchased private health insurance for \$514.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellants could not have purchased affordable private health insurance in 2019.

Since the appellants' income was within 300% of the FPL, they should have qualified for subsidized health insurance through the Health Connector, assuming they met all other eligibility criteria, and for which they would have been subject to a subsidized premium of approximately \$192.00 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellants under the law, they may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellants' tax penalty for 2019 could be waived if they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellants in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The appellants testified that they incurred basic monthly expenses of approximately \$2565.00, including credit card debt, in 2019. Although those expenses were less than their regular monthly pre-tax income of approximately \$3083.00, thereby making a subsidized insurance premium of \$192.00 seemingly manageable, the difference of \$518.00/month was an inadequate cushion to cover unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellants established that they 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. See 956 CMR 6.08 (1)(e).

Based upon the totality of the evidence, it is concluded that the appellants' request for a waiver from the penalty is **granted** for the months in question. The determination that the appellants are eligible for a hardship waiver is with respect to 2019, only and is based upon the extent of information submitted by them in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed: (appellant A)   12        Number of Months Assessed:   0    
Number of Months Appealed: (appellant B)   12        Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health

insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-186

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

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

**Hearing Date:** June 16, 2020

**Decision Date:** June 26, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 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: Statement of Grounds submitted by Appellant to the Health Connector (3 pages)
- Exhibit 4: Notice to Quit Premises (dated 5/29/19) (3 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 21 at the end of 2019.
2. At the time of the hearing, Appellant resided in Middlesex County in the Commonwealth of Massachusetts. However, in the first few months of 2019, he resided with his mother in Essex County.
3. Appellant filed his state income taxes as a resident in Massachusetts.
4. Appellant filed his 2019 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 2019 of \$29,971. This income consisted of earnings from 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 2019.
7. Prior to 2019, Appellant was covered under his mother's health insurance. However, in late 2018, his mother lost her job and she was no longer receiving health insurance that would cover Appellant.
8. In May 2019, Appellant's mother received a notice to quit the premises in Essex County where they were living due to non-payment of rent. At that time, Appellant was preoccupied with finding a new place to live. He ultimately moved to Middlesex County where he was residing at the time of the hearing.
9. At the time of the hearing, Appellant had health insurance through the Health Connector's Connector Care program, which he had obtained earlier in the year when he applied at a hospital while getting treatment.

## **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 2019.

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 2019.

However, Appellant would have been eligible for government-subsidized insurance in 2019. His adjusted gross income of \$29,971 was below \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 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 he met the other eligibility criteria in 2019, based on his testimony about his residence and lack of insurance through an employer and on the fact that he was determined eligible for Connector Care in 2020. However, Appellant was not enrolled in Connector Care during 2019. He stated that at that time, he was preoccupied with the need to find housing and other issues arising from his mother's loss of a job.

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 2019, an individual like Appellant in a household of one person and an income of \$29,971 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 \$29,971, which amounts to only \$1,258 annually or \$104 a month. In 2019, an individual like Appellant who lived in either Middlesex or Essex County and was 21 years old could obtain an unsubsidized health insurance plan at a monthly premium of \$231. 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 2019.

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 claimed in his appeal of the individual mandate penalty that he experienced a hardship consisting of the receipt of an eviction notice in 2019. He has produced the eviction notice received by his family in May of 2019. Receipt of an eviction notice constitutes grounds for a hardship waiver of the penalty. See 956 CMR 6.08(1)(a). Based on these facts, I allow the appeal and waive Appellant's penalty for 2019.

**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: PA19-188

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

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

**Hearing Date:** June 16, 2020

**Decision Date:** June 26, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 16, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Hearing Notice (2 pages)

Exhibit 2: Appeals Case Information Sheet containing information from Appellant's 2019 Schedule HC (1 page)

Exhibit 3: Statement of Grounds submitted by Appellant (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 22 at the end of 2019.
2. In 2019 Appellant resided in Worcester County in the Commonwealth of Massachusetts.
3. Appellant filed her state income taxes as a resident in MA.
4. Appellant filed her 2019 Massachusetts taxes with a status of single with no dependents.
5. Appellant reported on her Massachusetts tax return and confirmed in her testimony at the hearing that she had adjusted gross income in 2019 of \$23,350. This income consisted of earnings from work at two part-time jobs she held in Massachusetts. During 2019, Appellant also attended college.

6. Appellant reported on the Schedule HC that she filed with her Massachusetts tax return, and confirmed in her testimony at the hearing, that she did not have health insurance at any point in 2019.
7. Prior to 2019, Appellant was covered under her mother's health insurance. However, in late 2018, her mother lost her job and she was no longer receiving health insurance that would cover Appellant.
8. Appellant did not have an offer of insurance at the part-time jobs that she held in 2019.
9. At some point in 2018, Appellant had signed up for Connector Care and had received an insurance plan that cost her \$144 a month. She struggled to make that monthly payment while also meeting her other expenses, which included maintaining a car that she needed for work and school. At some point in 2018, she stopped making the premium payment and was no longer insured.
10. During the course of 2019, Appellant moved from her mother's home and began living independently, which entailed additional expenses, including rent.

## **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 2019.

Appellant stated that her part-time jobs did not provide health insurance to her and so she did not have employment sponsored insurance available in 2019.

However, Appellant would have been eligible for government-subsidized insurance in 2019. Her adjusted gross income of \$23,350 was below \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 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 in 2019, based on the fact that she was determined eligible for Connector Care in 2018 and that she lived in Massachusetts and did not have access to employer-sponsored insurance in 2019.

However, Appellant was not enrolled in Connector Care during 2019. She stated that when she had applied in 2018, her monthly premium was \$144, which she concluded was too much for her to afford. The Connector Care premium is set on a sliding scale based on income. Based on the income that Appellant reported for 2019, her Connector Care premium should have been less than \$144 a month; at the lower level, it would be more affordable for her. Appellant was urged in the hearing to reapply and provide her current income and her 2019 income in order to see if she could obtain Connector Care insurance at a more affordable premium.

Without government subsidized insurance, Appellant would not have been able to afford health insurance on her 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 2019, an individual like Appellant in a household of one person and an income of \$23,350 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 4.2% of \$23,350, which amounts to only \$677 annually or \$56 a month. In 2019, an individual like Appellant who lived in Worcester County and was 22 years old could obtain an unsubsidized health insurance plan at a monthly premium of \$257. 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 2019.

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's income was low because she was working part-time for a good part of the year due to the fact that she was in school. Appellant had assumed the expenses of living independently in 2019, which further strained her budget. Finally, Appellant had made an effort to obtain health insurance in 2018, but unfortunately was assigned a premium that she considered unaffordable for her in 2019 given her low income. Given all these facts, I determine that the cost of that insurance would have caused Appellant a serious deprivation of the necessities of life, which constitute grounds for a waiver of the individual mandate penalty. See 956 CMR 6.08(1)(e). Based on all these factors, I exercise my discretion to waive the penalty for 2019.

Although I have waived the penalty for 2019, I note that as of the date of the hearing, Appellant was uninsured and thus is potentially subject to a penalty for 2020. Appellant is urged to reapply for Connector Care, using her current income figure, which will be supported by her 2019 tax figures. This might lead to her obtaining insurance at a more affordable premium.

**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: PA19-190

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

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

**Hearing Date:** June 16, 2020

**Decision Date:** June 26, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 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 (2 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)
- Exhibit 3: Statement of Grounds submitted by Appellant to the Health Connector (3 pages)
- Exhibit 4: Attachment to Statement of Grounds, consisting of information regarding Appellant's 2019 budget (9 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 37 at the end of 2019.
2. Throughout 2019, Appellant resided in Norfolk County in the Commonwealth of Massachusetts.
3. Appellant filed his state income taxes as a resident in Massachusetts.
4. Appellant filed his 2019 Massachusetts taxes with a status of head of household with two dependents. His dependents were his parents who lived with him and whom he supported.

5. Appellant reported on his Massachusetts tax return and confirmed in his testimony at the hearing that he had adjusted gross income in 2019 of \$56,543. This income consisted of earnings from work at two jobs that he held at different periods of 2019.
6. Appellant reported on the Schedule HC that he filed with his Massachusetts tax return, and confirmed in his testimony at the hearing, that in 2019 he had health insurance during the months of January through March, and again from May through July, but did not have any insurance in April or for the months from August through December.
7. Appellant stated that at the start of 2019, he was working at a job that provided him with health insurance coverage. However, he left that job in March of 2019 in order to take a new position. He received insurance coverage in that new job, but it did not start until May 1, resulting in a one-month gap of coverage in April.
8. Appellant was dissatisfied with his new job and he left it in July. At that time he had a promise of work as an independent contractor. However, he found that he was being given significantly fewer hours of work as an independent contractor than he had anticipated. As a result, his income during the latter part of 2019 was less than he had expected.
9. Appellant provided budget information (Exhibit 4) showing his income and expenses for the latter part of 2019. During that period, he had certain fixed expenses including payments for mortgage, utilities, and a car loan. His income as an independent contractor was not enough to meet those fixed expenses and as a result during those months he had a regular shortfall ranging from \$31 to \$887 a month. See Exhibit 4 at page 1.
10. In early 2020, Appellant obtained a full-time position at the organization where he had been working as an independent contractor. As a result, his income increased and was stable. At that point, he applied for and obtained health insurance coverage through that position. He was enrolled in that insurance 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 2019.

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 in April 2020. Because that gap was for fewer than three months, he was not assessed a penalty for that gap in coverage. Appellant was also without insurance for five months from August through December 2020. Because he is entitled to a three-month coverage gap without penalty, he has been assessed a penalty for only two months. Thus, in this decision, I will consider the period at the end of 2019 when Appellant was not insured and was subject to a penalty.

Appellant stated that at the end of 2019, he was working as an independent contractor and did not have insurance available to him through that work.

Further, Appellant would not have been eligible for government-subsidized insurance in 2019. His adjusted annual gross income of \$56,543 was above \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2018 Schedule HC, of which I take administrative notice.) Persons with household incomes above 300 percent 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.)

Given those circumstances, Appellant's only option during his period without insurance would have been to purchase market rate insurance. However, 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 2019, an individual like Appellant who was a head of household with two dependents and an annual income of \$56,543 was deemed able to afford 5.85% 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 5.85% of \$56,543, which amounts to only \$3,307 annually or \$275 a month. In 2019, an individual like Appellant who lived in Norfolk County and was 37 years old could obtain an unsubsidized health insurance plan at a monthly premium of \$286. 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 2019.

Because Appellant would not have been able to obtain affordable coverage during the period in 2019 when he was uninsured, he should not have been subject to the individual mandate penalty. Therefore, I am not required to determine whether he has established grounds for a hardship waiver of that penalty in 2019. Accordingly, I am allowing the appeal and waiving the penalty assessed against Appellant.

**PENALTY ASSESSED**

Number of Months Appealed:   2        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: PA19-191

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

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

**Hearing Date:** June 16, 2020

**Decision Date:** June 26, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 16, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Hearing Notice (2 pages)
- Exhibit 2: Appeals Case Information Sheet containing information from Appellant's 2019 Schedule HC (1 page)
- Exhibit 3: Statement of Grounds submitted by Appellant with shutoff notice attached (5 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 42 at the end of 2019.
2. In 2019 Appellant resided in Hampden County in the Commonwealth of Massachusetts.
3. Appellant filed her state income taxes as a resident in Massachusetts.
4. Appellant filed her 2019 Massachusetts taxes with a status of head of household with one dependent. The dependent was a child who lived with her.
5. Appellant reported on her Massachusetts tax return and confirmed in her testimony at the hearing that she had adjusted gross income in 2019 of \$26,453. This income consisted of earnings from a job she held in Massachusetts.

6. Appellant reported on the Schedule HC that she filed with her Massachusetts tax return, and confirmed in her testimony at the hearing, that she did not have health insurance at any point in 2019.
7. Appellant stated that she had been enrolled in Connector Care, which is a subsidized health insurance program offered by the Health Connector, at some point before 2019. However, she had not been able to make her monthly premiums and so had been disenrolled. She further stated that she had enrolled again in Connector Care in 2020 and was insured as of the date of the hearing.
8. Appellant received a shut off notice from Eversource, her electricity provider, in April of 2019, arising from an arrearage. See Exhibit 4. She testified that her electricity was cut off and she had to obtain electricity through an account in her son's name.

## **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 2019.

Appellant stated that her job did not provide health insurance to her and so she did not have employment sponsored insurance available in 2019.

However, Appellant would have been eligible for government-subsidized insurance in 2019. Her adjusted gross income of \$26,453 was below \$36,420, which is 300 percent of the federal poverty limit for a household of one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 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 in 2019, based on the fact that she had been determined eligible for Connector Care before 2019 and that she was again determined eligible in 2020.

However, Appellant was not enrolled in Connector Care during 2019. She stated that when she had been insured prior to 2019, she found the premiums too expensive and decided to apply her limited income to other expenses, which she considered more important. Appellant did testify that she was insured in 2020 and was at the time of the hearing meeting her monthly premiums.

Without government subsidized insurance, Appellant would not have been able to afford health insurance on her 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 2019, an individual like Appellant in a household of two people and an income of \$26,453 was deemed able to afford 4.3% of her 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 4.3% of \$26,453, which amounts to \$1,137 annually or \$94 a month. In 2019, the least amount that a person like Appellant, who lived in Worcester County and was 42, would have to pay for health insurance was \$306. (I obtain this figure from Table 4 of the instructions for the 2019 Schedule HC, of which I take administrative notice.) Thus, using affordability standards set by the Health Connector board, Appellant was deemed unable to afford unsubsidized health insurance in 2019.

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 received a shut off notice in 2019 from her electric utility because of an arrearage that she was unable to pay. Receipt of a shut off notice for an essential utility such as electricity constitutes a hardship and thus is grounds for waiving the individual mandate penalty. See 956 CMR 6.08(1)(b). Accordingly, Appellant has satisfied the requirement for an appeal of the penalty and I waive the penalty for 2019.

**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: PA19-224

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** June 25, 2020

**Decision Date:** June 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 25, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant

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

- Exhibit 1: Notice of Hearing dated May 26, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated February 15, 2020
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. She lives in Norfolk County, Massachusetts. Appellant works in a medical business.
2. Appellant could not afford health insurance in 2019. The company she worked for in January 2019 said they would pay for her health insurance through March 2019 when she left in January 2019 but did not do so. Appellant was unemployed from February 2019 through April 2019. Appellant worked temporary jobs until the end of 2019. She was unable to get health insurance at her current job until 2020.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$3,151.00, consisting of mortgage \$1,354.00, heat & light \$230.00, internet & cable \$100.00 cell phone \$120.00, food \$300.00, car payment \$230.00 car insurance \$90.00, car gas \$60.00, credit card \$467.00, clothing \$100.00, toiletries \$20.00, water \$100 & miscellaneous expenses \$70.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable" and "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$44,980.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 27 year old single person was \$257.00. The tables reflect that Appellant could afford \$284.87. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable” and “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under both grounds.

Appellant left her job in January 2019 and her company did not live up to its promise to provide health insurance until March 2019. Appellant was unemployed from February through April 2019. Appellant then worked temporary jobs until the end of 2019 and could not afford health insurance.

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

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

Appellant reported a federal AGI of \$44,980.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$284.87 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$284.87 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is less than she could afford. Appellant was out of work for three months and then worked temporary jobs until the end of 2019. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-227

**Appeal Decision** Appeal Approved

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

**Hearing Date:** June 25, 2020

**Decision Date:** June 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 25, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated May 26, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 5, 2020
- Exhibit 4: Written Statement of Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-two years old and is single. He lives in Hampshire County, Massachusetts.
2. Appellant work in a transportation firm. He has been laid off since March 2020.
3. Appellant was offered health insurance by his company at a rate of \$800.00 per month.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,565.00, consisting of rent \$100.00, heat \$75.00, cell phone 56.00, car insurance \$40.00, car gas \$80.00 food \$240.00, entertainment \$9.00, toiletries \$20.00 clothing \$25.00, dog care \$20.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$18,459.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Hampshire County for a 52 year old single person was \$364.00. The tables reflect that Appellant could afford \$44.60. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

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

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

Appellant reported a federal AGI of \$18,459.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$44.60 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$364.00 monthly for coverage with zero dependents *Id.* at Table 4. His employer offered health insurance at a cost of \$800.00 per month.

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

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

Appellant works for a transportationl firm. He was offered health insurance from his company but the cost of the insurance was around \$800.00, which he could not afford. Private insurance would have cost \$264.00, which he could not afford.

Appellant is deemed to afford \$44.60 for health insurance coverage because of his income. Private insurance in the market place was \$364.00 per month, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-154

**Appeal Decision** Appeal Approved

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

**Hearing Date:** June 8, 2020

**Decision Date:** June 23, 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 June 8, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated May 19, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated March 9, 2020

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-two years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant works as an electrician. In 2019 he first worked for a non-union shop and then transferred to a union shop. He had difficulty applying for health insurance because he had a name change when he was born and had difficulty obtaining a birth certificate and his social security number. He finally obtained the information needed but not until 2020.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,435.00, consisting of rent \$500.00, cell phone \$120.00, food \$40.00, car payment \$300.00, car insurance \$315.00, car gas \$200.00, credit card \$250.00, clothing \$150.00, entertainment \$200.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-2019 but should have appealed under the ground , " Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable." 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 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$46,349.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Suffolk County for a 21 year old single person was \$257.00. The tables reflect that Appellant could afford \$421.79. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did not submit a Statement of Grounds for Appeal-2019 but should have appealed under the ground , “ Other. During 2019 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable.” I will hear his appeal under this ground.

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

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

Appellant reported a federal AGI of \$30,818.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$421.79 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

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

Appellant applied for health insurance but he had difficulty obtaining his birth certificate and social security number because his name was changed shortly after his birth.

Appellant is deemed to afford \$421.79 for health insurance coverage because of his income. Private insurance in the market place was \$257.00 per month, which is less than he could afford. Appellant was precluded from obtaining health insurance because of his inability to obtain his birth certificate and social security number. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-157

**Appeal Decision** Appeal Approved

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

**Hearing Date:** June 8, 2020

**Decision Date:** June 26, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 8, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated May 19, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 11, 2020
- Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant lost his job in 2018 and had to file for bankruptcy which was ultimately dismissed. He was in quite a bit of debt going into 2019. He did per-diem work in 2018 and 2019 but struggled because of his debt and could not afford health insurance until the end of 2019.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$4,050.00, consisting of rent \$1,250.00, heat and light \$150.00, internet and cable \$75.00, telephone \$125.00, car payment and insurance \$750.00, car gas \$200.00 food \$400.00, credit card \$400.00 student loan \$500.00, entertainment \$100.00, clothes \$50.00, toiletries \$50.00
5. The Appellant submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$46,222.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Middlesex County for a 31 year old single person was \$279.00. The tables reflect that Appellant could afford \$308.14. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant reported a federal AGI of \$46,222.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$308.14 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$279.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

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

Appellant suffered a job loss in 2018 and had to file for bankruptcy in 2018. This economic setback impacted Appellant’s ability in 2019 to afford health insurance as he dug out from his debt until the end of 2019. He only worked per-diem jobs in 2019

Appellant is deemed to afford \$308.14 for health insurance coverage because of his income. Private insurance in the market place was \$279.00 per month, which is less than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19202

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

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

**Hearing Date:** June 19, 2020

**Decision Date:** June 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on June 19, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until July 10, 2020 to give the appellant time to submit additional evidence. A document was received by the Connector on June 29, 2020; it was forwarded to the hearing officer. The document has been marked as an exhibit and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 3, 2020 with letter in support and document relating to bankruptcy, 1095A for 2019 attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated May 22, 2020 for June 19, 2020 hearing
- Exhibit 4: Connector Final Appeal Decision for Tax Year 2011 dated May 23, 2012
- Exhibit 5: Appellant's 2019 Form 1099HC

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 38 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$34,746 in 2019 (Testimony of Appellant, Exhibit 2).
4. On Appellant's 2019 tax return, Appellant indicated that he had no health insurance which met the Commonwealth's minimum creditable coverage standards all year (Exhibit 2).

5. Appellant had health insurance which met the Commonwealth's standards for one month, April, in 2019 through the Connector. He paid \$129 a month. He felt he could not afford this cost, so he dropped the coverage (Exhibits 1, 2, 5; Testimony of Appellant).
6. Appellant was employed all year as a server at a restaurant. He worked part-time. He was paid \$4.35 an hour plus tips. Appellant's earnings varied greatly from month to month. He earned more during the summer months, about \$4,000 per month, and significantly less from October through March, about \$1,000 per month (Testimony of Appellant).
7. Appellant was not offered health insurance through his job. Only full-time employees were offered coverage (Testimony of Appellant).
8. Appellant has been assessed a penalty for twelve months. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 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 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$34,746 could afford to pay \$144 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Suffolk County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
11. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$600; heat and electricity-\$0; telephone-\$30; food-\$340; transportation-\$100; clothing-\$166 (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 2019 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 has been assessed for a penalty for all of 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him a serious deprivation of basic necessities. Exhibits 1, 2. Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards during April, 2019. Since Appellant is entitled to a three-month grace period after losing coverage at the end of April, his penalty for May through July is waived. See Exhibit 5, Appellant’s Form 1099HC for 2019.

To determine if the rest of the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months 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 2019, the appellant with no dependents claimed with an adjusted gross income of \$34,746 could afford to pay \$144 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Suffolk County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was unaffordable for him. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2019. Appellant was a part-time employee; only full-time employees were offered coverage. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$34,746, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance. See 956 CMR 12.04 (3).

Since the appellant could have obtained affordable health insurance through the ConnectorCare program, we need to determine if Appellant had a financial hardship such that the cost of purchasing health insurance would have caused 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 expenses for basic necessities in 2019: rent-\$600; heat and electricity-\$0; telephone-\$30; food-\$340; transportation-\$100; clothing-\$166. See the testimony of Appellant, which I find to be credible.

Appellant’s expenses amounted to about \$1,250 a month. From May through September, Appellant earned about \$4,000 a month. During the months of January through March and October through December, Appellant earned about \$1,000 a month. During the months when Appellant earned the lesser amount, the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. In each of those months, his expenses were several hundred dollars greater than his income. In August and September, Appellant had no deficit and his expenses for necessities were significantly less than his income. Appellant, therefore, could have afforded the cost of purchasing health insurance during these months. Since his projected income for the year

would still have been less than the income limit for ConnectorCare coverage, he would have had access to affordable coverage during those months through the ConnectorCare program.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him during the months January through March and October through December. Appellant's income varied while expenses stayed the same throughout the year. His income was three to four times greater during late spring and summer months than during winter and late fall. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities during the winter and late fall months. See 956 CMR 6.08(1)(e). See also 6.08(3) which allow the consideration of Appellant's inconsistent income.

The penalty for August and September remains. None of the other exceptions allowing waiver are applicable. 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 2019. Appellant did not fall more than thirty days behind in rent payments in 2019, and Appellant did not receive any shut-off notices for basic utilities in 2019. See 956 CMR 6.08 (1)(a, b, and d) and the appellant's testimony which I find to be credible.

Appellant's penalty is waived in part.

Appellant should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   12   Number of Months Assessed:   2  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-111

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 26, 2020

**Decision Date:** May 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 May 26, 2020.

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

- Exhibit 1: Notice of Hearing dated April 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 24, 2020
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-nine years old and her husband is forty years old. They live in Norfolk County, Massachusetts.
2. Appellants came to the United States in 2014 and lived in Maine. They moved to Massachusetts in late 2018. During their period in Maine they obtained International Student Organization health insurance (ISO). They were not aware that it did not meet the requirements of Massachusetts. Appellant provided proof of health insurance through ISO for the period of January through May 2019. As soon as Appellant's husband was able he obtained health insurance through the Health Connector
3. Appellants do have health insurance in 2020.
4. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, you purchased health insurance that didn't meet minimum credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying insurance that met the requirements"
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 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$87,619.00 was more than \$49,380.00. The monthly premium for health insurance available on the private market in Norfolk County for a 39 year old married person was \$572.00. The tables reflect that Appellant could afford 584.12. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, you purchased health insurance that didn’t meet minimum credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying insurance that met the requirements”

Appellants came to the United States in 2014 and lived in Maine. They moved to Massachusetts in late 2018. During their period in Maine they obtained International Student Organization health insurance (ISO). They were not aware that it did not meet the requirements of Massachusetts. Appellant provided proof of health insurance through ISO for the period of January through May 2019. As soon as Appellant’s husband was able he obtained health insurance through the Health Connector

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

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

Appellant reported a federal AGI of \$87,619.00 in 2019, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$584.12 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$572.00 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 \$584.12 for health insurance coverage because of their income. Private insurance in the market place was \$572.00 per month, which is less than they could afford. Appellant had ISO insurance which did not meet the health standards of Massachusetts and he obtained the health insurance through the Health Connector as soon as he could . On these facts, I find that Appellant has shown that they were precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed:   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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1117

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** March 26, 2020

**Decision Date:** June 30, 2020

## **AUTHORITY**

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

## **JURISDICTION**

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

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on March 26, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated November 11, 2019
- Exhibit 4: Written Statement of Appeal dated November 11, 2019
- Exhibit 5: Open Record

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-three years old and is married and her husband is fifty-seven years old. They live in Hampshire County, Massachusetts.
2. Appellant discovered in October 2017 That he son had multiple myeloma and needed extensive health care. Appellant quit her job and stayed home to care for her son. Appellant's son had a stem cell transplant in April 2018 and Appellant had to continue to care for him in the rest of 2018.
3. Appellant and her husband lived with her daughter in 2018, so their expenses were low.
4. The Appellant's monthly expenses totaled \$750.00, consisting of cell phone \$50.00, car insurance \$150.00, car gas \$100.00, food \$400.0, clothing \$25.00 and entertainment \$25.000.
5. The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, "During 2018, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: the sudden responsibility for providing full care for an ageing parent or other family member, including a major, extended illness of a child that requires you to hire a full time caretaker for the child" The Appellant should have also appealed under the grounds of "During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under all grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$31,508.00 was less than \$48,720.00. The monthly premium for health insurance available on the private market in Essex County for a62 year old married person was \$758.00. The tables reflect that Appellant could afford \$114.21. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “During 2018, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: the sudden responsibility for providing full care for an ageing parent or other family member, including a major, extended illness of a child that requires you to hire a full time caretaker for the child” The Appellant should have also appealed under the grounds of “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under all grounds.

Appellant discovered in October 2017 That he son had multiple myeloma and needed extensive health care. Appellant quit her job and stayed home to care for her son. Appellant’s son had a stem cell transplant in April 2018 and Appellant had to continue to care for him in the rest of 2018.

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 married person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$31,508.00 in 2018, and Appellant’s filing status was married . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the

Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$114.21 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$758.00 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 \$114.21 for health insurance coverage because of her income. Private insurance in the market place was \$758.00 per month, which is more than they could afford. Appellant had to care for her son who had multiple myeloma and she had to leave her job to care for him. On these facts, I find that Appellant has 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:   24   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