

FINAL APPEAL DECISION: PA19-423

**Appeal Decision:** The penalty is overturned in part.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** March 26, 2021  
**Decision Date:** March 31, 2021

**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, 2021. 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. (1 P).  
Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/11/2021. (2 PP).  
Exhibit 3: Health Connector's Notice of Hearing dated 3/4/2021 (2 PP).  
Exhibit 4: Appellant's Request to Vacate Dismissal dated (1 P).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 30 in 2019, lived in Bristol County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$62,478. (Exhibit 1). (Appellant's Testimony).
3. Appellant did not have health insurance in 2019. (Exhibit 1). (Appellant's Testimony).
4. Appellant was enrolled in MassHealth in 2018 until she became ineligible in 2019. (Appellant Testimony).

5. Appellant was employed full time and was eligible for employer sponsored insurance (“ESI”). (Appellant Testimony).
6. Appellant testified she investigated obtaining ESI but had previously signed a waiver and also missed the open enrollment period. (Appellant Testimony).
7. Appellant did not know the cost of the premiums for ESI. (Appellant’s Testimony).
8. Appellant testified she investigated the cost of publicly sponsored insurance but missed the open enrollment period. (Appellant’s Testimony).
9. Appellant testified that she was entrusted with caring for her ill parent who came to reside with her in 2018. (Appellant’s Testimony).
10. Appellant testified she was her ill parent’s health care proxy and had significant transportation and lodging costs as her parent required medical care in Boston. (Appellant’s Testimony).
11. Appellant testified she was required to miss a substantial amount of time from work while taking care of her ill parent. (Appellant’s Testimony).
12. Appellant testified she incurred significant expenses in paying for her ill parent’s credit cards and vehicle. (Appellant’s Testimony).
13. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
14. Appellant testified her net take home pay was approximately \$ 2,800 per month. (Appellant Testimony).
15. Appellant had the following average monthly living expenses in 2019: Rent \$400/mo., Car Payment \$100, Car Insurance \$100/mo., Gas \$200/mo., Credit Cards \$150/mo., Food \$300, totaling: \$1,250. (Appellant’s Testimony).
16. Appellant testified she incurred 2 monthly expenses of \$150 a month and \$100 for a month in paying her parent’s expenses while ill. Appellant also incurred substantial lodging and parking fees in Boston while caring for her parent totaling approximately \$500. (Appellant’s Testimony).
17. According to Table 3 Appellant could have afforded \$416.52 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
18. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant’s income was greater than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant’s Testimony).
19. 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.

20. Appellant was able to purchase Connectorcare in 2020 and continues to be insured. (Appellant's Testimony).

### **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) with the appeal, claiming that the individual mandate did not apply to her during 2019 because she incurred a significant, unexpected increase in essential expenses resulting directly from providing full care for an aging parent including with an extended illness. The Appellant also adduced testimony that 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 and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See 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 evidence provided by the Appellant established that her income for 2019, \$62,478.00 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 \$62,478 in 2019 and could have afforded \$416.52 per month. According to Table 4, Appellant, age 30 and living in Bristol County during the time she was being penalized for not having insurance, could have purchased insurance for \$257 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 in 2019 (“ESI”). The Appellant credibly testified she was eligible for employer sponsored insurance but did not know the amount of the monthly premiums. Appellant testified she investigated obtaining ESI but had previously signed a waiver and also missed the open enrollment period.

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, there was no testimony from the Appellant (except that she signed a waiver and missed the Open Enrollment period) regarding the monthly cost for a plan through the Appellant’s employer and whether 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 full rate insurance on the market, 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 had the following average monthly living expenses in 2019: Rent \$400/mo., Car Payment \$100, Car Insurance \$ 100/mo., Gas \$200/mo., Credit Cards \$150/mo., Food \$300, totaling: \$1,250 (Appellant’s Testimony). The Appellant also credibly testified she incurred 2 monthly expenses of \$150 a month and \$100 for a month in paying her parent’s expenses while ill. Appellant also incurred substantial lodging and parking fees in Boston while caring for her parent totaling approximately \$500.

The evidence presented by the Appellant in this case, including the additional temporary monthly costs the Appellant incurred in caring for her ill parent, is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. Given the Appellant’s Annual Adjusted Gross Income (“AGI”) of \$62,478, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$416.52 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony).

Notwithstanding the above, the penalty will be reduced to six (6) months in order to mitigate the harshness of a full twelve (12) 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:   6  

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

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

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

Cc:    Connector Appeals Unit

Hearing Officer

**ADDENDUM**

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA17-849

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

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

**Hearing Date:** March 3, 2021

**Decision Date:** March 5, 2021

### **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.

Appellant appeared at the hearing, which was held by telephone, on March 3, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC<sup>1</sup>

Exhibit 3: Statement of Grounds submitted by Appellant, with personal statement and attachments

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is appealing an assessment of the individual mandate tax penalty for tax year 2017.
2. Appellant was 49 at the end of 2017.
3. Appellant lived in Plymouth County in 2017.
4. Appellant filed her 2017 Massachusetts taxes as single with no dependents.
5. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2017 of \$26,441. See Exhibit 2
6. Appellant reported in the Schedule HC that she filed with her 2017 state income taxes that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2017.

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<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

7. During 2017, Appellant was self-employed. She did not have health insurance through her employment.
8. Before 2017, Appellant had been receiving government-subsidized health insurance through the Connector Care program run by the Health Connector. However, in May of 2016, she lost eligibility for that insurance. She had not filed income taxes for several years at that point and one of the eligibility requirements for subsidized insurance is that the recipient regularly file taxes.
9. Without the subsidy, she was unable to afford the premium for unsubsidized insurance which was approximately \$300 a month.
10. Starting in 2018, Appellant was able to get health insurance through the employment of her domestic partner. She has been insured since then and was insured at the time of the hearing.
11. In 2019, Appellant filed taxes for previous years, including 2017, in which she had not previously filed. As a result, she was assessed this penalty for 2017.

In addition to the foregoing, I take administrative notice of the 2017 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/files/documents/2018/01/16/dor-2017-inc-sch-hc-inst.pdf>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2017 individual mandate tax penalty determinations.

## **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 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.

In order to determine whether to uphold the penalty assessed against Appellant I must first determine whether she had affordable insurance available to her during 2017. In order to do this, I must consider whether Appellant could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

Appellant was self-employed in 2017 and was not offered health insurance through that work. Therefore, she did not have access to employer sponsored insurance.

Appellant had qualified for government-subsidized insurance in the past. The government subsidies are made available under the Affordable Care Act, for persons who meet the income requirements and other eligibility requirements. 26 USC § 36B. Among those eligibility requirements is the requirement that the recipient annually file taxes, in order to determine that they received the correct amount of subsidies and that their income qualified them for receipt. 45 CFR 155.305(f)(4). Unfortunately, Appellant did not file taxes for several years including 2016, because she was experiencing personal difficulties due to a loss of a family member. As a result of her non-filing, she lost eligibility for government-subsidized insurance.

Without government subsidies, Appellant could not have afforded unsubsidized insurance purchased on the non-group market. To make this determination, I apply state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Those standards set a percentage of income that a household can afford to spend for insurance, based on income and household size. The affordability standards are reprinted in Table 3 of the instructions to the 2017 Schedule HC. Under those standards, a person like Appellant who was in a household of one person and had an income of \$26,441 was deemed able to afford 4.2% of their income for insurance. In this case that would amount to \$1,110 a year or \$92 a month. In 2017, a person like Appellant who lived in Plymouth County and was 49 years of age would have had to pay \$313 a month for insurance. (I obtain the premium figure from Table 4 of the instructions to the 2017 Schedule HC.) Thus, the purchase of unsubsidized insurance in the non-group market was not affordable for Appellant applying state affordability standards.

Thus, I conclude that Appellant did not have the option of obtaining affordable health insurance in 2017. As a result, she should not be subject to the individual mandate penalty. Because I have made this determination, I do not have to inquire into whether she has stated grounds to waive the penalty under the Health Connector's appeals regulations. 956 CMR 6.08(1). Instead, I am allowing the appeal and waiving the penalty in full.

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA17-850

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

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

**Hearing Date:** March 3, 2021

**Decision Date:** March 5, 2021

### **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.

Appellant appeared at the hearing, which was held by telephone, on March 3, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC<sup>1</sup>

Exhibit 3: Statement of Grounds submitted by Appellant, with personal statement and attachments

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is appealing an assessment of the individual mandate tax penalty for tax year 2017.
2. Appellant was 28 at the end of 2017.
3. Appellant lived in Worcester County in 2017.
4. Appellant filed his 2017 Massachusetts taxes as single with no dependents.
5. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2017 of \$54,042. See Exhibit 2
6. Appellant reported in the Schedule HC that he filed with his 2017 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2017.

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<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

7. During 2017, Appellant worked in the food service industry. He did not have a full time job and was not offered health insurance through employment.
8. In the years before 2017, Appellant had invested in a food services business that he ran with a partner. During that time, he obtained health insurance as a small employer.
9. The business did not succeed, and the partnership broke up. In 2017, Appellant filed for personal bankruptcy.
10. During 2017, Appellant did not have a regular place of abode. He lived out of his car or on other people's couches.
11. At the start of 2018, Appellant was offered a full-time job that provided him with health insurance. He has been insured since then and was insured at the time of the hearing.
12. Appellant had fallen behind in filing taxes during the difficulties he experienced in 2017 and afterwards. In 2019, he caught up and filed his 2017 taxes. As a result, he was assessed a penalty for not having insurance in 2017.

In addition to the foregoing, I take administrative notice of the 2017 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/files/documents/2018/01/16/dor-2017-inc-sch-hc-inst.pdf>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2017 individual mandate tax penalty determinations.

## **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 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.

In order to determine whether to uphold the penalty assessed against Appellant, I must first determine whether he had affordable insurance available to him during 2017. In order to do this, I must consider whether Appellant could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

Appellant was employed in a position in 2017 that did not offer him health insurance. Therefore, he did not have access to employer sponsored insurance.

Appellant also did not qualify for government-subsidized insurance in 2017 because his income was too high. Government-subsidized insurance in Massachusetts consists of Connector Care, which is available to individuals whose household income is below 300% of the federal poverty and who meet other income requirements. 956 CMR 12.04(3). In 2017, 300% of the federal poverty for an individual like Appellant who lived in a household of one person was \$35,640. (I obtain this figure from the instructions to the Schedule HC, Table 2.) Thus, Appellant's annual income of \$54,052 was too high to qualify him for government-subsidized insurance.

However, Appellant could have afforded to purchase unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Those standards set a percentage of income that a household can afford to spend for insurance, based on income and household size. The affordability standards are reprinted in Table 3 of the instructions to the 2017 Schedule HC. Under those standards, a person like Appellant who was in a household of one person and had an income of \$54,042 was deemed able to afford 8.16% of their income for insurance. In this case that would amount to \$4,409 a year or \$367 a month. In 2017, a person like Appellant who lived in Worcester County and was 28 years of age could have obtained insurance for a premium of \$150 a month. (I obtain the premium figure from Table 4 of the instructions to the 2017 Schedule HC.) Thus, the purchase of unsubsidized insurance in the non-group market was affordable for Appellant applying state affordability standards.

Because I conclude that Appellant could have obtained affordable health insurance in 2017, I must determine whether he has stated grounds to waive that penalty under Health Connector appeals regulations. 956 CMR 6.08(1). I conclude that he has. Appellant offered credible evidence that he did not have a fixed place of abode in 2017 because of the financial difficulties that he experienced that year. Homelessness is grounds for establishing a hardship sufficient to waive the penalty. See 956 CMR 6.08(1)(a). Additionally, Appellant filed for personal bankruptcy in 2017 due to the failure of his business. He offered credible evidence that during this period, his income was limited and he had to struggle to meet minimum expenses. Thus, Appellant has demonstrated that he had financial circumstances such that the purchase of health insurance would have caused a deprivation of essentials. 956 CMR 6.08(1)(e).

Because I determine that Appellant has meet the required showing to waive the individual mandate penalty, I am allowing this appeal and waiving the penalty in its entirety.

**PENALTY ASSESSED**

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

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

FINAL APPEAL DECISION: PA18-1155

**Appeal Decision:** The penalty is overturned in part  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** February 11, 2021  
**Decision Date:** March 11, 2021

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant Husband appeared at the hearing, which was held by telephone on February 11, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2018.<sup>1</sup>
- Exhibit 2: Statement of Grounds for Appeal 2018. (1 PP).
- Exhibit 2(a): Appellant's correspondence with Appeal dated November 30, 2018 (1 page).
- Exhibit 2(b): Appellant's Electric Bills dated June 29, 2020 (3 pages).
- Exhibit 2(c): Appellant's Membership Certificate of Health Insurance and Yearly Invoice dated March, 2018 to March, 2019 (3 pages).
- Exhibit 3: Health Connector's Notice of Hearing dated 1/13/2020 (2 PP).

The record was held open at the conclusion of the hearing for documentation. The documentation was submitted in a timely manner and was marked as follows:

- Exhibit 4: Appellant's submission Vhi Table of Benefits-Company Plan Extra Level 1 dated March 2 2020. (PP6).
- Exhibit 5: Vhi Multi Trip Policy effective 03/20/2020 to 03/19/2021(PP 14).
- Exhibit 6: Correspondence regarding proof of insurance from 9/1/15-06/30/2018 for Appellant Husband: EXPAT Business Fixed Term Health Insurance for Long Term Travels. (PP2, February 16, 2021).
- Exhibit 7: EXPAT Business Fixed Term Health Insurance for Long Term Travels. (PP7, undated).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants', who filed a 2018 Massachusetts tax return reported they were married, in 2018, and had two

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

dependents (Exhibit 1, Testimony of Appellant).

2. Appellants moved to Massachusetts in 2017 and purchased a home (Exhibit 2(a), Testimony of Appellant).

3. Appellants' Federal Adjusted Gross Income for 2017 was \$285,533.00 (Exhibit 1).

4. Appellant Husband was employed by an International Company and prior to 2018 travelled between Malta and Ireland. (Testimony of Appellant).

5. The Appellant Husband and his family had lived in Texas and New York prior to 2018 while working and living outside the United States. (Testimony of Appellant).

6. Appellants had two (2) children ages 6 and 2 who were enrolled in school in Ireland in 2018. (Testimony of Appellant).

7. Appellant Husband testified that during 2018 they lived outside of the country for the majority of the year. (Testimony of Appellant, Exhibit 2(a)).

8. Appellant Husband testified their family came back during the summer for approximately 30-60 days to visit family who lived in New Jersey. (Testimony of Appellant).

9. Appellant Husband indicated they purchased a travel plan that would have provided major medical coverage during the time they were not present in Ireland. (Testimony of Appellant).

10. Appellant Husband testified he was reimbursed by his employer for the cost of the insurance they had in Ireland but did not know the amount. (Testimony of Appellant).

11. Appellant Husband testified he did not know the extent of the health insurance coverage provided, but there was coverage for medical procedures, and payment for prescriptions was required although the cost was approximately 10% of the prescriptions in the United States. (Testimony of Appellant).

12. Appellants rented an apartment in Ireland in 2018(Exhibit 2(a)(b), Testimony of Appellant).

13. Appellants were receiving mail at those residences referenced in the supporting documentation. (Exhibit 2(b)).

14. Appellants returned to Massachusetts in March 2020 with the inception of the Covid 19. (Testimony of Appellant).

15. Appellants have had employer health insurance through Blue Cross beginning in 2020. (Testimony of Appellant).

16. Appellant Husband testified did not know if he was registered to vote in Massachusetts in 2018. (Testimony of Appellant).

17. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part. Appellants have been assessed a tax penalty for twelve (12) months in 2018. Appellant has appealed the penalty. See Exhibits 1 and 2. The appellant submitted a statement of grounds for appeal (Exhibit 2), claiming that the individual mandate did not apply to them during 2018 for “Other” reasons such as being a non-resident of the state or not qualifying for government subsidized insurance.

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. The appellant did not have insurance in Massachusetts from January through December 2018. 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.

Appellants purchased a home in Massachusetts in 2017 but continued to live outside of the country (in Ireland) for the majority of 2018. (Exhibit 2(a)(b), Testimony of Appellant, which I find credible). Appellant Husband testified his family had health insurance in Ireland in 2018, as well as a travel policy presumably for coverage while the Appellants returned to Massachusetts. (Exhibits 5 and 6). Appellant Husband testified he was the only United States Citizen working for his Employer and the Employer did not offer insurance but reimbursed the Appellant employee for coverage. (Testimony of Appellant). The Appellant Husband testified he did not know the amount of the reimbursement or the extent of the health coverage provided other than that there was coverage for major medical. (Testimony of Appellant, which I find credible). Appellants continued to work and live outside of the United States until they returned in March 2020 because of Covid 19. (Testimony of Appellant, which I find credible). Appellants’ physical address was in Ireland in 2018. (Exhibits 2(a)(b), Testimony of Appellant which I find credible). Appellant Husband testified he did not realize that they may be penalized for failing to maintain Massachusetts Health Insurance. (Exhibits 2(a)(b), Testimony of Appellant which I find credible).

According to Table 3 of Schedule HC for 2018, the Appellants had an adjusted gross income of \$285,533.00 Dollars. According to Table 4, Appellants, ages 34 and residing in Middlesex County, could have purchased insurance for \$ 1,915 per month. A family plan would have cost the Appellants; \$777. Coverage was affordable through the individual market for the Appellants in 2018 (Schedule HC for 2018).

Based on the foregoing, it is concluded that the Appellants purchased a Massachusetts property in 2017 and were residents of Massachusetts and required to obtain insurance coverage which met minimum creditable coverage standards as required. I find that that although the Appellant’s rented an apartment in Ireland in 2018, they did not return to the United States during the summer for approximately 30-60 for a period of time. The Appellants did not realize that they would be penalized for failing to maintain Health Insurance which met minimum creditable coverage standards. I find that that the Appellants could have afforded health insurance through the individual private market. However, notwithstanding this conclusion, the penalty will be partially waived for the following reasons. The Appellants provided some evidence that they had health insurance through the National Health Insurance Plan in Ireland in 2018 and indicated the coverage was universal. The Appellant testified credibly that they have been enrolled in health insurance through the ExPat Business July 2015, thereby demonstrating that the

mandate to obtain insurance has not been lost on them. Furthermore, the Appellants obtained Blue Cross Blue Shield upon return to the States in March 2020. Therefore, based upon the totality of the evidence, it is concluded that although the Appellants were not exempt from the individual mandate and their request for a waiver from the penalty is denied, the Appellant's penalty is, however, partially waived for a portion of the penalty.

Appellants should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

**PENALTY ASSESSED**

Number of Months Appealed:   12                        Number of Months Assessed:   7  

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

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

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

Cc:     Connector Appeals Unit                                      Hearing Officer

**ADDENDUM**

If 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, 2018-January 23, 2019.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-100

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

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

**Hearing Date:** March 3, 2021

**Decision Date:** March 5, 2021

### **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.

Appellant appeared at the hearing, which was held by telephone, on March 3, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Hearing Notice
- Exhibit 2: Attendance Sheet (5/21/20)
- Exhibit 3: Request to Vacate Dismissal (Rec'd 5/29/20)
- Exhibit 4: Notice of Hearing (5/21/20)
- Exhibit 5: Appeals Case Information Sheet<sup>1</sup>
- Exhibit 6: Statement of Grounds (w/ statement and attachments)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant is appealing an assessment of the individual mandate tax penalty for tax year 2019.
2. Appellant was 37 at the end of 2019.
3. Appellant lived in Worcester County in 2019.
4. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
5. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$94,455. See Exhibit 2

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<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.



6. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he had health insurance meeting minimum creditable (MCC) standards from January through July, but did not have insurance from August through December.
7. At the start of 2019, Appellant worked for an employer who offered him health insurance.
8. However, at the start of July, the company he worked for went out of business and he lost his job.
9. After that, he was on unemployment for the balance of the year. While on unemployment, he was making about \$600 a week.
10. Appellant's financial circumstances after he was unemployed became very challenging. He had trouble finding a place to live. He eventually filed for bankruptcy in 2020.
11. During that period of time, he was paying child support of approximately \$600 a month.
12. At some point in 2020, Appellant applied for and received government subsidized insurance through the Health Connector. He was insured at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2019-schedule-hc-instructions/download>, 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**

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 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.

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of 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. In Appellant's case, he reported on his Schedule HC that he was without insurance for five months in 2019. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only two months.

In order to determine whether to uphold the penalty assessed against Appellant I must first determine whether he had affordable insurance available to him during 2019. In order to do this, I must consider whether Appellant could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the first part of 2019, Appellant was employed in a position that offered him insurance and he was enrolled in that insurance. However, he lost his job in July. After that he did not have access to employer sponsored insurance for the five-month period that he was uninsured in 2019.

Appellant also did not qualify for government subsidized insurance in 2019 because his income was too high. Government subsidized insurance in Massachusetts consists of Connector Care, which is available

to individuals whose household income is below 300% of the federal poverty and who meet other income requirements. 956 CMR 12.04(3). In 2019, 300% of the federal poverty for an individual like Appellant who lived in a household of one person was \$36,420. (I obtain this figure from the instructions to the Schedule HC, Table 2.) Thus, Appellant's annual income of \$94,455 was too high to qualify him for government-subsidized insurance

However, Appellant could have afforded to purchase unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Those standards set a percentage of income that a household can afford to spend for insurance, based on income and household size. The affordability standards are reprinted in Table 3 of the instructions to the 2019 Schedule HC. Under those standards, a person like Appellant who was in a household of one person and had an income of \$94,455 was deemed able to afford 8% of their income for insurance. In this case that would amount to \$7,556 a year or \$629 a month. In 2019, a person like Appellant who lived in Worcester County and was 37 years of age could have obtained insurance for a premium of \$286 a month. (I obtain the premium figure from Table 4 of the instructions to the 2019 Schedule HC.) Thus, the purchase of unsubsidized insurance in the non-group market was affordable for Appellant applying state affordability standards.

However, under the circumstances, I conclude that it would be inequitable to use the affordability standards based on his income for the entire year of 2019, to determine what Appellant could have afforded during the period that he was uninsured. This is so because most of the income he earned in 2019, was earned during the first seven months of the year when he was working and insured. After he lost his job and became uninsured, his income was limited to unemployment, which consisted of \$600 a week. That amount, if annualized, equals \$31,200. Using affordability standards based on that figure, Appellant would have been deemed able to afford only 5% of his income for his insurance. This would amount to \$1,560 a year or \$130 a month. That amount is significantly below the \$286 Appellant would have had to pay for health insurance in 2019.

Thus, I conclude that Appellant could have not obtained affordable health insurance during the five months that he was uninsured in 2019. Thus, he is not subject to the individual mandate penalty.

Further, even if I reached a contrary conclusion, I would determine that Appellant had stated grounds to waive the penalty under Health Connector appeals regulations. 956 CMR 6.08(1). Appellant offered credible evidence that he did not have a fixed place of abode in 2019 because of the financial difficulties that he experienced after his loss of employment. Homelessness is grounds for establishing a hardship sufficient to waive the penalty. See 956 CMR 6.08(1)(a). Additionally, Appellant offered credible evidence that during 2019, his income was limited and he had to struggle to meet expenses, which included \$600 a month of child support and interest and repayment of over \$70,000 in personal debt. Appellant's financial circumstances were so dire that in 2020 he filed for bankruptcy. Thus, Appellant has demonstrated that in 2019 he had financial circumstances such that the purchase of health insurance would have caused a deprivation of essentials. 956 CMR 6.08(1)(e).

In short, I conclude that Appellant should not be subject to the individual mandate penalty for 2019. Accordingly I am allowing this appeal and waiving the entire penalty assessed.

**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.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1105

**Appeal Decision** Appeal Approved

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

**Hearing Date:** March 25, 2021

**Decision Date:** March 29, 2021

### **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 25, 2021. 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 February 5, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. He lives in Hamden County, Massachusetts.
2. Appellant work in the landscaping business. The company he worked for did not offer health insurance..
3. Appellant has had a great deal of difficulty since he has been living on his own. When he went to have his taxes done in 2018 the tax preparer told him the cost of health insurance for 2019 would be \$180.00 per month through the Health Connector, which he could not afford. Because he was told this information he did not apply for the Health Connector. He has applied to the Health Connector since August 2019 and is paying \$88.00 per month.
4. Appellant does have health insurance in 2021 and had it in 2020 from August 2020 forward.
5. The Appellant's monthly expenses totaled \$1,815.00, consisting of rent \$700.00, heat & light \$120.00, internet and cable \$120.00, cell phone \$120.00, car insurance \$165.00, car gas \$120.00 food \$400.00, entertainment \$80.00, miscellaneous expense \$100.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." And "Other. During 2019 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable" I will hear Appellant's appeal under both grounds. "
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 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 \$20,335.00 was less than \$36,420.00. The monthly premium for

health insurance available on the private market in Hamden County for a 24 year old single person was \$257.00. The tables reflect that Appellant could afford \$49.14. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 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 \$20,335.00 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 \$49.14 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 \$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 has had a great deal of difficulty since he has been living on his own. When he went to have his taxes done in 2018 the tax preparer told him the cost of health insurance for 2019 would be \$180.00 per month through the Health Connector, which he could not afford. Because he was told this information he did not apply for the Health Connector. He has applied to the Health Connector since August 2019 and is paying \$88.00 per month.

Appellant is deemed to afford \$89.43 for health insurance coverage because of his income. Private insurance in the market place was \$418.00 per month, which is more than he could afford. Appellant has health insurance for 2021.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 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: PA19-383

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** March 9, 2021

**Decision Date:** March 17, 2021

### **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<sup>1</sup>**

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2019 appeared at the hearing, which was held by telephone on March 9, 2021. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did not appear at the hearing on that date. (Appellant's Testimony).

The hearing record consists of the testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection:

- Exhibit 1      First Hearing Notice dated 7/09/20 (2 pages)
- Exhibit 2      Appeal Case Info. fr. Sch. HC for 2019 (1 page)
- Exhibit 3      Statement of Grounds for Appeal (3 pages)
- Exhibit 4      Appellant's Letter in Support of Appeal (2 pages)
- Exhibit 5      First Attendance Sheet, Failed to Appear, 7/09/20 (1 page)

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<sup>1</sup> The pronouns "they," "their" and "them" are used throughout this Decision in order to be gender neutral, regardless of the singular or plural.

Exhibit 6	Appeal Case Info_fr. Sch. HC for 2019 Updated	(1 page)
Exhibit 7	Second Notice of Hearing dated 2/11/21	(2 pages)
Exhibit 8	Appellant's Letter Supporting Request to Vacate Dismissal, Rec'd 8/28/20	(2 pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Primary Taxpayer turned 30 years old in October 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with no dependents claimed in 2019. (Exhibit 2).
2. The Appellant Spouse turned 29 years old in October 2019. (Exhibit 2).
3. The Appellants lived in Suffolk County, MA during 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$27,277.00. (Exhibit 2 and Appellant's Testimony).
5. Neither Appellant had health insurance during any months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2).
6. The Primary Taxpayer was not assessed a tax penalty according to Appeal Information from Schedule HC for 2019. (Exhibit 2).
7. The Appellant Spouse was assessed a tax penalty of twelve (12) months according to Schedule HC for 2019. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. 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. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$27,277.00, could afford to pay \$97.74 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 30, living in Suffolk County, could have purchased private market health insurance for \$514.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellants in 2019.

10. The Primary Taxpayer worked part-time as a sales representative for a home security company during 2019. Their employer did not offer health insurance. The Appellant Spouse was unemployed during 2019. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was not available to the Appellants during 2019.
11. The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$27,277.00 was less than the Federal poverty level of \$49,380.00 for a family of two. (Schedule HC for 2019).
12. Appellants had been homeless for part of 2019 and at other times rotated through the homes of friends and family, as well as lived in their car on occasion. (Exhibits 3 and 4).
13. The Primary Taxpayer had MassHealth insurance coverage throughout all of 2019, which they said was reflected on their Form MA 1099-HC. (Primary Taxpayer's Testimony, which I credit).
14. The Primary Taxpayer testified that at the time of their 2019 tax preparation, Appellant Spouse told the Primary Taxpayer they also had MassHealth insurance during 2019. The Primary Taxpayer did not question this as the Appellant Spouse had had MassHealth coverage in prior years. (I credit the Primary Taxpayer's Testimony.)
15. The Primary Taxpayer further testified that their mother prepared their tax forms for 2019 and that she made an error when she completed a form showing that the Primary Taxpayer did not have health insurance during any months of 2019. In fact, the Primary Taxpayer had MassHealth during each month of 2019. (Primary Taxpayer's Testimony, which I credit).
16. The Primary Taxpayer also testified that they and the Appellant Spouse have been separated for almost a year since the Appellant Spouse abandoned them without leaving any forwarding address. (Appellant's Testimony, which I credit). The Primary Taxpayer has undertaken numerous efforts throughout the year to locate the Appellant Spouse, including contacting their relatives and putting a notice in the local newspaper, in order to secure a divorce and resolve financial and other matters, including the Appellant Spouse's tax penalty. The Primary Taxpayer testified to feeling very anxious and stressed about the situation. (Primary Taxpayer's Testimony, which I credit).
17. The Primary Taxpayer had Blue Cross Blue Shield insurance coverage for four months during 2020 through their employer, a cruise line, until they were laid off because of the pandemic. Since being laid off, they have received MassHealth insurance coverage.
18. The Primary Taxpayer prepared their taxes for 2020 as married filing separately.

## **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" 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 M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: 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.

As grounds for their appeal, the Primary Taxpayer stated that Appellants had been homeless for part of 2019 and at other times rotated through the homes of friends and family, as well as lived in their car on occasion. (Exhibits 3 and 4)

As an initial matter, I note that according to Appeal Information from Schedule HC for 2019 the Primary Taxpayer did not have any MCC-compliant health coverage throughout 2019. The Primary Taxpayer testified, however, that their mother completed their tax form in error and did not correctly complete the question as to months the Primary Taxpayer had MCC-compliant health insurance. (Appellant's Testimony, which I credit). I conclude that the Appeal Case Information from Schedule HC for 2019 is incorrectly completed as to the Primary Taxpayer and that they had MassHealth coverage throughout 2019. Thus, I further conclude that the Appeal Information from Schedule HC for 2019 showing that the Primary Taxpayer is assessed no penalty months is correct. (Exhibit 2).

The Appellant Spouse was assessed a tax penalty for twelve (12) months. (Exhibit 2). Appellant Spouse did not appear at the hearing to challenge any information concerning their penalty assessment.

As noted above the Appellants were homeless for part of 2019, lived with family and friends other parts of the year and sometimes lived in their car. (Exhibits 3 & 4). Additionally, the Appellant Spouse abandoned the Primary Taxpayer almost a year ago and has not been seen or heard from since, despite the Primary Taxpayer's numerous efforts to locate their spouse. (Appellant's Testimony, which I credit). Given that the Appellant Spouse has not been seen or heard from in almost a year, it is possible that they no longer maintain a Massachusetts residence. Further, the Primary Taxpayer currently is unemployed because of the pandemic. (Appellant's Testimony, which I credit).

Based on the totality of these circumstances and the evidence contained in this administrative record, I conclude that the Primary Taxpayer has demonstrated that assessing the Appellant Spouse a twelve (12)-month penalty when the Spouse has abandoned them and may no longer maintain a Massachusetts residence would cause the Primary Taxpayer hardship within the meaning of 956 CMR 6.08 (1) & (3).

For all these reasons, the Appellant Spouse's twelve (12)-month penalty is waived entirely.

The Appellants should note that the waiver of their penalty is based upon 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 tax penalty for failure to have health insurance.<sup>2</sup>

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

No. of Months Appealed:   0        No. of Months Assessed:   0  

Appellant Spouse:

No. of Months Appealed:  12       No. 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 2011.

**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

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<sup>2</sup> The Connector open enrollment period has been further extended until May 23, 2021. Appellants are encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-413

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** March 9, 2021

**Decision Date:** March 22, 2021

### **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<sup>1</sup>**

The Appellant appeared at the hearing, which was held by telephone, on March 9, 2021.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection:

- |   |  |           |
|---|--|-----------|
| 1 | First Hearing Notice dated 7/14/20   | (2 pages) |
| 2 | Appeal Case Info. fr. Sch. HC for 2019   | (1 page)  |
| 3 | Statement of Grounds for Appeal 4/5/20   | (3 pages) |
| 4 | Appellant's Monthly Expenses   | (1 page)  |
| 5 | Appeal Case Info. fr. Sch. HC for 2019 Updated 8/17/20                           | (1 page)  |
| 6 | Appeal Case Info. fr. Sch. HC for 2019 Updated 9/16/20, Vacated Dismissal App'vd | (1 page)  |

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<sup>1</sup> The pronouns "they," "their" and "them" are used throughout this Decision in order to be gender neutral, regardless of the singular or plural.

7	Hearing Notice dated July 14, 2020	(2 pages)
8	Second Hearing Notice dated 2/11/21	(2 pages)
9	Appellant's Request to Vacate Dismissal, 9/4/20	(1 page)

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 34 years old in December 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$32,892.00. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2). The Appellant filed an appeal of that assessment in April 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. 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 individual, with no dependents claimed, with an annual adjusted gross income of \$32,892.00, could afford to pay \$137.05 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34, living in Middlesex County, could have purchased private market health insurance for \$279.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer beginning in April 2019 offered health insurance during 2019 at a cost of more than \$400.00 per month. (Appellant's Testimony). The Appellant was unemployed from January through March 2019. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was not available to the Appellant in 2019.

9. The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$32,892.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. Appellant was unemployed from January through March 2019. (Appellant's Testimony). Thereafter, they became employed as a seasonal worker who delivered and assembled deck furniture. They were paid on an hourly basis at a beginning rate of \$16.00 per hour. (Appellant's Testimony). They did not work during the off-season, typically at least January through March. (Appellant's Testimony, which I credit).
11. Appellant was not able to afford the health insurance their employer offered at a cost of more than \$400.00 per month. (Appellant's Testimony).
12. The Appellant had only temporary places to live during 2019, first with an acquaintance and then with their father, before having to move into a place of their own because of a court-imposed deadline. (Appellant's Testimony, which I credit).
13. The Appellant felt pressure to save enough money to be able to afford an apartment of their own. (Appellant's Testimony). Moreover they were not familiar with possible health insurance options through the Health Connector marketplace. (Appellant's Testimony, which I credit)
14. Appellant's 2019 monthly living expenses of \$1,882.00 included: Rent - \$200.00, Utilities - \$200.00, U-Haul storage - \$126.00, Car insurance - \$142.00, Car maintenance - \$40.00, Gas - \$160.00, Phone - \$60.00, Food - \$300.00, Child support - \$444.00, , Clothing - \$70.00, Toiletries - \$60.00, Credit card debt - \$30.00 and Miscellaneous - \$50.00 (Appellant's Testimony).
15. The Appellant testified that they currently have health insurance coverage through the Health Connector. (Appellant's Testimony).

## **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" 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 M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: 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 appeals the assessed tax penalty of twelve (12) months on the ground that the expense of purchasing health insurance would have caused them to experience a loss of food and other basic living necessities. (Appellant's Testimony and Exhibits 3).

To determine if the twelve (12)-month 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 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 individual, with no dependents claimed, with an annual adjusted gross income of \$32,892.00, could afford to pay \$137.05 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34, living in Plymouth County, could have purchased private market health insurance for \$279.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.

The Appellant's employer beginning in April 2019 offered health insurance at a cost of more than \$400.00 per month. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was not available to the Appellant.

The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$32,892.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2). However, that coverage, which is subsidized in part by a federal advance premium tax credit, is available to individuals who have access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the federal Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is 9.86 percent or less of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR section 155.305(f). Calculating 9.86% of the Appellant's modified adjusted gross income of \$32,892.00 equals \$3,243.15 per year or \$270.26 per month. Since the employer-sponsored insurance offered to Appellant cost more than \$400.00.00 per month, that offer was deemed unaffordable pursuant to the Affordable Care Act. The Appellant, therefore, was eligible for ConnectorCare coverage because they were eligible for an advance premium tax credit. (Exhibit 2).

Given that government-sponsored insurance was available to Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

Appellant was unemployed from January through March 2019. (Appellant's Testimony). Thereafter, they became employed as a seasonal worker who delivered and assembled deck furniture. They were paid on an hourly basis at a beginning rate of \$16.00 per hour. (Appellant's Testimony). They did not work during the off-season, typically at least January through March. (Appellant's Testimony, which I credit).

Appellant had only temporary places to live at the beginning of 2019, first with an acquaintance and then with their father, before having to move into a place of their own because of a court-imposed deadline. (Appellant's Testimony, which I credit). The Appellant felt pressure to save enough money to be able to afford an apartment of their own and did not believe they could afford the expense of health insurance without sacrificing basic living necessities such as food. (Appellant's Testimony). Moreover they were not familiar with possible health insurance options through the Health Connector marketplace. (Appellant's Testimony, which I credit)

Appellant's 2019 monthly living expenses were \$1,882.00 or \$22,584.00 annually. However, Appellant was unemployed for the first three months of 2019, was employed thereafter as a seasonal worker paid on an hourly basis, was under pressure to save enough money to be able to rent an apartment of their own and was unfamiliar with the Health Connector Marketplace.

Based on the totality of these circumstances, I conclude that the expense of purchasing health insurance in 2019 would have created a hardship for the Appellant. 956 CMR 6.08(1) & (3).

The Appellant testified that they currently have health insurance coverage through the Health Connector. (Appellant's Testimony).

For all these reasons, the assessed tax penalty for Appellants' twelve (12) uninsured months is waived entirely for each Appellant.

The Appellant should note that the waiver of their penalty is based upon 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 tax penalty for failure to have health insurance.<sup>2</sup>

**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 2011.

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

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<sup>2</sup> The Appellant was informed that the Health Connector open enrollment period has been extended until May 23, 2021. Appellant is encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change.

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: PA19-446

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

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

**Hearing Date:** March 26, 2021

**Decision Date:** March 31, 2021

**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, 2021. 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. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/6/2020. (2 PP).
- Exhibit 2(a) Appellant's Correspondence and Documentation (Bank Statements/Vehicle Dealer info) submitted with the original appeal on 3/29/2020. (7PP).
- Exhibit 2(b) Appellant's Documentation Pay Ledger dated 3/11/21 (1PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 3/4/2021 (2 PP).
- Exhibit 4: Appellant's Request to Vacate Dismissal dated 9/10/2020. (1 P).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 35 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$42,932. (Exhibit 1). (Appellant's Testimony).
3. Appellant did not have health insurance in 2019. (Exhibit 1). (Appellant's Testimony).

4. Appellant was employed full time and was eligible for employer sponsored insurance (“ESI”) with the Appellant’s cost of the premiums of approximately \$400 a month. (Appellant’s Testimony).
5. Appellant testified he could not afford the cost of ESI because he needed to save for the purchase of a vehicle as which he needed to travel to his employment. (Appellant’s Testimony).
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 testified his net take home pay was approximately \$1,200 per Bi-weekly pay period.
8. Appellant had the following average monthly living expenses in 2019: Rent \$600, Phone \$40, Car Insurance \$45., Gas \$75, Credit Cards \$600, Food \$300, totaling: \$1,660 (Appellant’s Testimony).
9. Appellant incurred the one-time expenses for Car Repairs of \$1,450 and a Car Purchase of \$6,000, or \$620.83 per month, (Appellant’s Testimony).
10. According to Table 3 Appellant could have afforded \$271.90 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$286.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant’s income was greater than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant’s Testimony).
12. The Appellant monthly cost for the cost of self only coverage through the appellant’s employer of approximately \$400 which is more than 9.86 percent of the appellant’s projected household MAGI for 2019 (i.e.—9.86 percent of \$42,932.00 is \$4,233/12 or \$352.75/month. (See Table 2 of Schedule HC 2019, Appellant’s Testimony).
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.
14. The Appellant testified he was able to obtain ESI in January 2020. (Appellant’s Testimony).

## **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) with the appeal, claiming that the individual mandate did not apply to him during 2019 because 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 and that during 2019, he received a shut-off

notice for utilities, and was more than 30 days in arrears of mortgage payments. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See 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 evidence provided by the Appellant established that his income for 2019, \$42,932.00 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 \$42,932 in 2019 and could have afforded \$271.90 per month. According to Table 4, Appellant, age 35 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$286 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 in 2019 (“ESI”). The Appellant testified he was eligible for employer sponsored insurance and the employee cost of the premiums were approximately \$400 a month. The Appellant credibly testified he could not afford the premiums given his expenses and need to purchase a vehicle which he needed to get to work. (Appellant’s Testimony). 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 testified that monthly cost for a plan through the Appellant's employer was approximately \$400. That cost is more than 9.86 percent of the Appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$42,932.00 is \$4,233/12 or \$352.75/month). Hence, since the cost of employer insurance is more than \$352.75/month, he is considered to not 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 individual coverage and ESI was not affordable, the Appellant is not subject to a penalty.

Notwithstanding the above, the Appellant also credibly testified that that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question and that he was unable to afford the cost of a private plan or ESI given his net monthly take home pay of approximately \$2,400, his monthly expenses of \$1,660, and his one-time total payments of \$7,450 (Car Repairs of \$1,450) and a (Car Purchase of \$6,000).

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

#### **PENALTY ASSESSED**

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

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.

Cc:      Connector Appeals Unit

Hearing Officer

#### **ADDENDUM**

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

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 19-1086**

**Appeal Decision:** \_\_\_Penalty Upheld XXPenalty Overturned in Full \_\_\_Penalty Overturned in Part

**Hearing Issue:** Whether the 2019 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** January 20, 2021

**Decision Date:** March 8, 2021

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, 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 M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone on January 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated December 16, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated September 4, 2020.
- Exhibit 4: Appellants' letter in support of this Appeal, undated.

**FINDINGS OF FACT**

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

1. Appellant moved to Massachusetts in April of 2019. (Appellant Testimony; Exhibit 2).
2. Appellant turned 29 years old and resided in Hampden County beginning in April of 2019. (Exhibit 2).
3. Appellants filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$28,453. (Exhibit 2).



4. Appellant did not have health insurance after moving to Massachusetts in 2019. (Exhibit 2).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L. c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

In support of his appeal, Appellant claims that none of his of his employers in 2019 offered employer-sponsored health insurance (“ESI”). (Appellant Testimony; Exhibit 4).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant moved to Massachusetts in April, he is entitled to a three-month grace period. Appellant is appealing a six-month tax penalty for 2019. (Exhibit 2).

The issue before me is whether the six-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant 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 to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2019 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellant’s 2019 Adjusted Gross Income of \$28,453 made him eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 29 and living in Hampden County, \$257 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$28,453 could afford to pay \$100 monthly for an individual plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that

private insurance was not affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that after moving to Massachusetts in April of 2019, he began working for a temporary agency that did not offer ESI. (Appellant Testimony; Exhibit 4). Appellant testified that in July of 2019 he was hired directly by the employer with whom the temporary agency placed him, and this employer did not offer ESI either, possibly due to size. (Appellant Testimony; Exhibit 4). In October of 2019 Appellant went to work for another, different temporary agency, his third employer not offering ESI. (Appellant Testimony; Exhibit 4). Appellant was hired full-time in January of 2020 by the employer with whom the second temporary agency placed him, at which time Appellant enrolled in ESI. (Appellant Testimony; Exhibit 4).

I find credible Appellant’s testimony regarding his belief that he missed the special enrollment period (“SEP”) for ConnectorCare due to transitioning through multiple employers. (Appellant Testimony; Exhibit 4).

Accordingly, Appellant’s appeal is **GRANTED** and his 6-month 2019 Tax Penalty 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 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 M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in the county where you reside, or Suffolk County Superior Court, within thirty (30) days of your receipt of this decision.

**ADDENDUM**

While Appellant may have believed he missed the SEP for ConnectorCare due to transitioning through multiple employers, Appellant is advised to familiarize himself with events that open up SEP, and not rely on a similar grant of leniency should he appeal the assessment of a penalty in any future tax year.

Hearing Officer

Cc: Connector Appeals Unit

**Massachusetts Health Connector Appeals Unit**  
**Final Appeal Decision PA 19-1089**

**Appeal Decision:** \_\_\_Penalty Upheld \_\_\_Penalty Overturned in Full XXPenalty Overturned in Part

**Hearing Issue:** Whether the 2019 Tax Year Penalty Should Be Waived in Whole or in Part

**Hearing Date:** January 20, 2021

**Decision Date:** March 8, 2021

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**AUTHORITY**

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A c. 111M and c. 176Q, 956 C.M.R 12.00, 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 M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

**HEARING RECORD**

Appellant Husband (“Appellant”) appeared at the hearing, which was held by telephone on January 20, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated December 16, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated May 9, 2020.
- Exhibit 4: Appellants’ letter from medical provider in support of this Appeal dated April 22, 2020.

**FINDINGS OF FACT**

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

1. Appellant turned 52 years old, Appellant Wife turned 50 years old, and both resided in Norfolk County in 2019. (Exhibit 2).
2. Appellants filed their 2019 Federal Income Tax return as married filing jointly, with one dependent claimed, reporting an Adjusted Gross Income of \$121,107. (Exhibit 2).
3. Appellants both had health insurance in January of 2019, and did not have health insurance beginning in February through December of 2019. (Exhibit 2).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” 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 the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. *See* 956 C.M.R. 6.08.

In support of their appeal, Appellant claims that mental health problems and homelessness prior to 2019 caused he and his family to be unable to purchase health insurance in 2019. (Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellants both had health insurance for a portion of 2019, they are each entitled to a three-month grace period. Appellants’ Appeal Case Information from Schedule HC indicates that Appellants had no coverage from February through December of 2019, and they are each appealing a six-month tax penalty for 2019. (Exhibit 2).

The issue before me is whether the six-month 2019 Tax Year penalty assessed against each Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellants in 2019. In determining affordability, consideration is given first to the amount Appellants are deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellants through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2019 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellants experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellants 2019 Adjusted Gross Income of \$121,107 made them ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$62,340 for a family of 3). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, ages 52 and 50 and living in Norfolk County, between \$855 and \$968 per month to purchase an family plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return as married filing jointly, with one dependent, with an annual Adjusted Gross Income of \$121,107 could afford to pay

\$807 monthly for a family plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was affordable for Appellants in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that in 2017 and 2018, he experienced a significant mental health crisis which culminated in his family's homelessness, testimony which is corroborated by submission of a letter from Appellant Wife's healthcare provider. (Appellant's Testimony; Exhibit 4). Appellant was able to recover and eventually move into a residence in or around June of 2018, albeit after having lost "everything." (Appellant Testimony). Appellant testified that in January of 2019, he worked in a low-paying position, until securing a position as a sales manager in April of 2019, and very commendably earning a significant income with this employer for the remainder of 2019. (Appellant Testimony). Appellant's employer offered employer-sponsored health insurance ("ESI") after expiration of a 3-month waiting period and Appellant credibly testified that he had access to this ESI beginning in July of 2019. Appellant Wife did not work in 2019 and did not have access to ESI. (Appellant Testimony). Appellant did not provide a credible reason for failing to sign up for ESI in July of 2019.

Based on Appellant's testimony, I find that Appellants had access to ESI beginning in July of 2019.

Appellant is unwilling or unable to say the source of he and his spouse's January 2019 health insurance coverage, or the reason for this coverage ending in February of 2019. (Appellant Testimony). Appellant testified that they likely had MassHealth coverage and that he may remember receiving a notification that he and his family did not qualify for this coverage anymore based on income ineligibility. (Appellant Testimony). As this issue is not determinative of the instant decision, weighing the credibility of this testimony is unnecessary.

Based on Appellant's credible testimony that in 2019 his wife did not have access to ESI, and that he did not have access to ESI until July, as well as Appellants' having health insurance coverage for January of 2019, waiver of 5 months of penalties for both Appellants is warranted.

Accordingly, Appellants' appeal is **ALLOWED** in part and **DENIED** in part.

**PENALTY ASSESSED**

Appellant Husband:	Number of Months Appealed: 8	Number of Months Assessed: 3
Appellant Wife:	Number of Months Appealed: 8	Number of Months Assessed: 3

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 M.G.L. c. 30A. To appeal, you must file a complaint with the Superior Court in 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: PA19-1142

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** February 11, 2021  
**Decision Date:** March 5, 2021

### 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<sup>1</sup>

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2019 appeared at the hearing, which was held by telephone on February 11, 2021. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did not appear at the hearing on that date. The Primary Taxpayer testified they were authorized to speak for their spouse. (Appellant's Testimony).

The hearing record consists of the testimony of the Primary Taxpayer and the following documents which were admitted into evidence without objection:

- Exhibit 1: Hearing Notice dated January 19, 2021 (2 pages)
- Exhibit 2: Appeal Case Info. from Sch. HC for 2019 (1 page)
- Exhibit 3: Connector Appeals Unit – Statement of Grounds  
Not Received, 10/29/20 (2 pages)
- Exhibit 4: Appeal Case Info. fr. Sch HC for 2019 with

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<sup>1</sup> The pronouns “they,” “their” and “them” are used throughout this Decision in order to be gender neutral, regardless of the singular or plural.

	Vacate Dismissal request	(1 page)
Exhibit 5:	Taxpayer Supporting Letter, 11/17/20	(1 page)
Exhibit 6:	PA14-499 Decision	(5 Pages)

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Primary Taxpayer turned 55 years old in April 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with two (2) dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 50 years old in February 2019. (Exhibit 2).
3. The Appellants lived in Plymouth County, MA during 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$230,664.00. (Exhibit 2).
5. The Primary Taxpayer did not have Minimum Creditable Coverage (MCC)-compliant health insurance during any months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2).
6. The Primary Taxpayer was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
7. Appellant Spouse was not assessed a tax penalty for any months during 2019. (Exhibit 2)
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. 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. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two (2) dependents claimed, with an annual adjusted gross income of \$230,664.00, could afford to pay \$1,537.76 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 55, living in Plymouth County, could have purchased private market health insurance for \$836.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Primary Taxpayer in 2019.
10. The Primary Taxpayer purchased health insurance family plan coverage through their employer at a cost of about \$400.00 per month during 2019. (Appellant's Testimony and Exhibit 5). However, that plan was not MCC-compliant in one respect; it did not provide



dependent care maternity coverage. Thus, affordable MCC-compliant employer-sponsored insurance was not available to the Primary Taxpayer during 2019. (Taxpayer's Testimony and Exhibit 5).

11. The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$230,664.00 was greater than the Federal poverty level of \$75,300 for a family of four. (Schedule HC for 2019).
12. The Appellants have a sixteen-year-old son and a nineteen-year-old daughter. The daughter is not dating and is not in a long-term relationship of any kind. (Primary Taxpayer's Testimony).
13. The Primary Taxpayer was employed by a Michigan company during 2019. The company offered health insurance through Blue Cross Blue Shield (BCBS) of Michigan. The taxpayer's contribution for a family plan was about \$400.00 per month. (Taxpayer's Testimony and Exhibit 5).
14. The BCBS plan met MCC standards in all respects except that it did not offer maternity leave benefits for dependents.
15. The Taxpayer asked his company if they could supplement their health plan to provide maternity leave benefits for dependents. The company responded negatively because the Primary Taxpayer is the company's only Massachusetts employee. (Primary Taxpayer's Testimony, which I credit).
16. The Primary Taxpayer used to work a second job driving an Uber car to help make ends meet, anticipating the cost of college tuitions for their two children and other family expenses. During the pandemic, however, the Primary Taxpayer was forced to give up Uber driving and, thus, lost a second source of income in the amount of about \$14,000.00. (Primary Taxpayer's Testimony, which I credit).
17. The Primary Taxpayer works as a salesman. Their company's sales are off because of the pandemic. Consequently, the Primary Taxpayer and other sales personnel will not receive any bonuses or salary raises. (Primary Taxpayer's Testimony).
18. The Primary Taxpayer takes care of their aging parents who live in a neighboring town, one of whom has had quadruple by-pass surgery. The Primary Taxpayer's caretaking responsibilities have been heightened during the pandemic. (Primary Taxpayer's Testimony, which I credit).
19. The Primary Taxpayer's company required the Appellant Spouse to secure insurance through their employer, which they did for herself. The cost to the Appellant Spouse for a family plan would have been about \$1,200.00, which Appellants deemed too expensive for their family's living expenses. (Taxpayer's Testimony).

20. The Appellants' daughter contracted COVID-19 in January 2020. As a result, the Primary Taxpayer and their son moved into a motel for ten days while the daughter recovered at home. They incurred about \$2,000.00 in extra expenses for food and lodging during that time.
21. Appellants' 2019 monthly living expenses of \$11,030.00 included: Mortgage - \$2,600.00, Heat – \$400.00, Phone - \$400.00, Cable/internet – \$200.00, Electricity - \$250.00, Food - \$1,700, Car payments – 980.00, Car insurance - \$500.00, Gas - \$300.00, Credit Card debt - \$1,750.00, Student loans - \$200.00. (Primary Taxpayer's Testimony).
22. The Taxpayer filed appeals of assessments for tax years 2014 and 2018. (Exhibits 2, 6)

## **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” 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 M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: 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 Primary Taxpayer was assessed a tax penalty of twelve (12) months according to Appeal Information from Schedule HC for 2019. (Exhibit 2). Appellant Spouse was not assessed a tax penalty for any months during 2019. (Exhibit 2)

The Primary Taxpayer appeals their tax penalty assessment of twelve (12) months on the ground of hardship and on the equitable basis of having tried unsuccessfully to secure maternity care for dependent coverage from their employer. (Taxpayer's Testimony and Exhibit 5).

To determine if the Primary Taxpayer's twelve-month 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 Taxpayer through employment, through private insurance, or through a government-sponsored program. If 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 Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$230,664.00, could afford to pay \$1,537.76.00 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 55, living in Plymouth County, could have purchased private market health insurance for

\$836.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Primary Taxpayer in 2019.

The Primary Taxpayer's employer offered family plan health insurance at a cost of about \$400.00 per month. (Primary Taxpayer's Testimony). However, that insurance did not offer maternity care coverage for dependents. Therefore, the employer-sponsored insurance was not MCC-compliant.

The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$230,664.00 was greater than the Federal poverty level of \$75,300.00 for a family of four. (Schedule HC for 2019).

Appellants' had monthly living expenses of about \$11,030.00 monthly in 2019. During 2019 and 2020 the Primary Taxpayer was forced to give up their second job as an Uber driver because of the pandemic. This meant a loss of about \$14,000.00 annually in income. (Primary Taxpayer's Testimony, which I credit). Additionally, because sales were down for the Primary Taxpayer's company, they did not receive any bonus or salary increase for 2020. At the same time, they had to assume the time and expense of caring for their aging parents in a neighboring town during the pandemic. One of their parents had quadruple by-pass surgery. Additionally, the Primary Taxpayer's daughter contracted COVID-19. As a result, the primary taxpayer and their son had to live in a motel and buy meals outside the house for a period of ten days while the daughter recovered. (Primary Taxpayer's Testimony, which I credit).

Based on the totality of the circumstances and the evidence contained in this administrative record, I conclude that the Primary Taxpayer has demonstrated financial hardship. 956 CMR 6.08. Moreover, the Primary Taxpayer attempted to secure maternity care coverage through their employer but was unsuccessful. (Primary Taxpayer's Testimony, which I credit).

For all these reasons, the Primary Taxpayer's twelve-month penalty is waived entirely.

The Appellant should note that the waiver of their penalty is based upon 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 tax penalty for failure to have health insurance that is MCC-compliant in Massachusetts, as the individual mandate requires.<sup>2</sup>

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

No. of Months Appealed:   12        No. of Months Assessed:     0    

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<sup>2</sup> The Appellant was informed that the Connector open enrollment period has been extended until May 23, 2021 at the time of their hearing. Appellant is encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change.

Appellant Spouse:

No. of Months Appealed:   0   No. 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 2011.

**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: PA18-1143

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** February 9, 2021

**Decision Date:** March 25, 2021

### **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 February 9, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2018
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 4—2018 Form MA 1099-HC
- Ex. 5—2018 Form 1095-C

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 34-years-old, is married, and does not have children. In 2018, she resided in Berkshire County. She had minimum creditable coverage (MCC) health insurance from January through April, 2018.<sup>2</sup> (Testimony, Exs. 4,5)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

<sup>2</sup> The appellant was single in 2018. She got married in October, 2020.

2. The appellant was employed by a restaurant in 2018 and had employer provided health insurance from January through April. Subsequent to April, she did not work enough hours to continue to qualify for insurance and she was uninsured for the rest of the year. (Testimony, Ex. 2)
3. The appellant had no knowledge that her health insurance had been dropped after April, 2018, because she had no occasion to use it during the year. She first became aware of the matter when she prepared her 2018 tax returns during the early spring of 2019. (Testimony)
4. The appellant prepared her 2018 tax returns herself and mistakenly indicated on her Massachusetts Schedule HC that she did not have health insurance for the months of January through April. (Testimony)
5. The appellant was unable to work on a full-time basis after April because her sister was incarcerated and she unexpectedly had to look after her sister's baby during the week. On the weekends, she picked up as many hours as she could at the restaurant. She also worked in two other part-time jobs during the year to cover her expenses. (Testimony)
6. The appellant attended community college on a part-time basis in 2018 and paid \$2700.00 for tuition and books. (Testimony, Ex. 1)
7. The appellant had health insurance in 2019 and 2020. (Testimony, Ex. 1)
8. The appellant reported an adjusted gross income of \$42,106.00 on her 2018 federal tax return, and reported that she was single with no dependents. (Ex. 2)
9. In 2018, the appellant had regular monthly expenses of approximately \$1605.00 for rent and utilities (\$925.00), automobile loan (\$250.00), automobile insurance (\$130.00), gasoline (\$200.00) and food (\$100.00). In addition, she was on a payment plan with the IRS for the 2016 and 2017 tax years under which she paid \$100.00/month, and paid approximately \$35.00/month for credit card debt. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2018>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2018 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities; and 2) she incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of the sudden responsibility for providing full care for herself, an aging parent or other family member. She also submitted a letter with her statement in which she stated in part that she worked three jobs and went to school. She further stated that her sister was incarcerated

in 2018 and “every penny” she had went to caring for her sister’s baby, leaving her with no money to obtain health insurance.

Although the appellant had health insurance from January through April, she mistakenly indicated on her Schedule HC that she 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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Despite the fact that the appellant was insured for four months, she indicated that she was uninsured for the entire year. As a result, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she was employed throughout 2018 by a restaurant and had employer health insurance from January through April. She testified that her sister was incarcerated during the year and she unexpectedly became responsible for the care of her sister’s baby during the week. She testified that as a result, she was only able to work on a part-time basis, and unbeknownst to her, her health insurance was dropped after April because she did not have a sufficient number of hours to qualify. She testified that she first became aware of the situation when she prepared her 2018 tax returns during the early spring of 2019. She testified that she mistakenly indicated on her Schedule HC that she did not have insurance for the entire year. Finally, she testified that she had health insurance in 2019 and 2020.

With respect to the appellant’s first ground for her appeal, the evidence provided by her established that her income for 2018, \$42,106.00, was more than 300% of the federal poverty level (FPL), which for 2018 was \$36,180.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$36,181.00 and \$42,210.00 is deemed to be able to afford a monthly premium of \$261.41 (7.45% of \$42,106.00/12). Table 4 of the Premium Schedule indicates that a 31-year-old individual (the appellant’s age in 2018) in Berkshire County (where the appellant resided in 2018) could have purchased private health insurance for \$253.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2018.

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that he experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant’s tax penalty for 2018 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 evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that she incurred basic monthly expenses of approximately \$1735.00, including credit card debt and her IRS payment plan, in 2018. Those expenses were less than her regular monthly pre-tax income of approximately \$3508.00, thereby making a private insurance premium of \$253.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1773.00 per month is not a panacea, it does not appear on its face that the payment of \$ 253.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that she unexpectedly became responsible for the full-time care of her niece after her sister was incarcerated. This situation prevented her from working a full schedule at the restaurant where she was employed, thereby causing her to lose her health insurance. The appellant did not present any evidence of the sudden financial responsibility she assumed, but since she was prevented from working full-time, it is not unreasonable to presume that the amount was significant. Moreover, she had health insurance in 2019 and 2020, thereby demonstrating that the mandate to obtain insurance was not lost on her. <sup>3</sup>

Based upon the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2018, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

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

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

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<sup>3</sup> As a result of this determination, it is not necessary to analyze the appellant's second ground for her appeal.



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-1166

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2018 Tax Year Penalty  
**Hearing Date:** January 22, 2021  
**Decision Date:** March 11, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 22, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated December 21, 2020  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2018  
Exhibit 3: Notice of Appeal dated September 10, 2020  
Exhibit 4: Statement in Support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 37 years old in 2018 and filed a 2018 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Middlesex County, MA in 2018 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2018 was \$32,567 (Exhibit 2).
4. Appellant was covered under government subsidized health insurance during January through May (Exhibit 2 and Testimony of Appellant).
5. Appellant did not have health insurance from June through December 2018 (Exhibit 2 and Testimony of Appellant).
6. Employer sponsored health insurance was available at a cost of \$131 per month for Appellant (Testimony of Appellant).
7. In October 2018, Appellant looked into employer sponsored insurance but was told that Appellant could not enroll until open enrollment late in the year (Testimony of Appellant).
8. Appellant did not sign up for the employer sponsored insurance due to the cost (Testimony of Appellant).

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

10. According to Table 3 of Schedule HC for 2018 a person filing as single with no dependents claimed and with a Federal Adjusted Gross Income of \$32,567 could afford to pay \$136 per month for health insurance. According to Table 4, Appellant, age 37 and living in Middlesex County, could have purchased private insurance for \$290 per month. Private insurance was not considered affordable for Appellant in 2018.

11. According to Table 2 of Schedule HC for 2018, Appellant, earning less than \$36,180 would have met the income eligibility guidelines for government subsidized insurance.

12. Appellant would have been blocked from purchasing government subsidized insurance since the cost of the employer sponsored health insurance for a single plan for Appellant was \$131 per month, which was less than 9.56% of Appellant's Modified Adjusted Gross Income See Schedule HC Health Care Table 2 and Worksheet for Line 11, and Exhibit 4.

13. Appellant struggled to pay for necessary expenses including rent, utilities, and student loans during 2018 (Testimony of Appellant).

14. Appellant was assessed a penalty for four months for 2018 (Exhibit 2).

15. Appellant filed an appeal, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

During 2018, employer sponsored health insurance was available to Appellant at cost of \$131 for a single plan for Appellant. Private insurance was available at a cost of \$290. According to Table 3 of Schedule HC for 2018, Appellant could afford to pay \$136 per month for health insurance, so private insurance was not considered affordable. Employer sponsored insurance was considered affordable, but was very close to the limit for affordability. Appellant, earning less than \$36,180 was income eligible for government subsidized health insurance. However, since the cost of an individual plan under the employer sponsored health insurance was less

than 9.56% of Appellant's modified adjusted gross income, the employer sponsored insurance would have blocked access to Advance Premium Tax credits and government subsidized health insurance. See 956 CMR 6.00, 45CFR 155.305 (f)(1)(ii)(B), 26CFR 1-36B-2(c)(3)(v), Schedule HC for Healthcare, Tables 2, 3 and 4, Exhibits 2, 3 and 4, and Testimony of Appellant, which I find to be credible.

Although the employer sponsored health insurance was considered affordable, Appellant was unable to enroll after Appellant lost the government subsidized health insurance. Given these circumstances, I find that the penalty assessed against Appellant for 2018 should be waived in full.

**PENALTY ASSESSED**

Number of Months Appealed: 4

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

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

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

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA191049

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

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

**Hearing Date:** January 11, 2021

**Decision Date:** March 9, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 11, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on August 12, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated December 14, 2020 for January 11, 2021 hearing

Exhibit 4: Appellant's 2019 1098-T forms

Exhibit 5: Appellant's 2019 1098-E forms

### **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 32 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$46,073 in 2019. Part of Appellant's income were one-time withdrawals from the appellant's pension fund and the appellant's 401k (Testimony of Appellant, Exhibit 2).
4. Appellant had a job at a bank in 2018 and 2019. Appellant was a contract employer. Appellant worked up to 32 hours a week and earned \$16.85 an hour. Appellant's hours varied month to month. At some point near the end of 2018, the bank outsourced the appellant's position to a third-party (Testimony of Appellant).
5. Appellant was offered health insurance by the bank in 2018. Appellant had coverage all year that met the Commonwealth's standards. When his position was outsourced, the health insurance coverage offered changed. It was more expensive and covered less. Appellant found out in November, 2018 about the new coverage. He was given a few days to enroll. Appellant did not enroll in the coverage; he had no coverage all year (Testimony of Appellant, Exhibit 2).

6. Appellant took undergraduate courses one semester in 2019. Appellant had to pay \$11,100 for tuition and fees for these courses (Testimony of Appellant, Exhibit 4).
7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
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. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$46,073 could afford to pay \$291 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Norfolk County, could have purchased insurance for \$279 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019, Tables 3 and 4, Exhibit 2, Testimony of Appellant).
10. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
11. Appellant lived with family in 2019. He had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$200; telephone/internet-\$0.00; food-\$630; clothing-\$100; car payments-\$400; car insurance-\$206; gas-\$110; paying off old credit card debt-\$500; student loan payments-\$550. Appellant also spent \$500 during the year for car repairs (Testimony of Appellant, Exhibit 5).

## **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.

Appellant was uninsured all of 2019. He has been assessed a penalty for twelve months. Appellant has appealed the assessment. See Exhibits 1 and 2. Appellant had health insurance which met Commonwealth standards all of 2018. Since he is entitled to a three-month grace period after losing coverage, his penalty for January through March is waived. 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 \$46,073 could afford to pay \$291 per month for health insurance. According to Table 4, Appellant, 32 years old and living in Norfolk County, could have purchased insurance for \$279 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2, and the testimony of Appellant which I find to be credible.

According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

Appellant had access to health insurance through employment. However, the coverage offered in 2019 was more expensive and less broad than the coverage Appellant had through his job in 2018, and the appellant was only given a few days to decide whether or not to enroll. See the testimony of the appellant which I find to be credible. There is no evidence in the record as to how much the coverage would have cost or if it would have met the Commonwealth's minimum creditable coverage standards. While the coverage was available, we have no way of knowing whether it was affordable.

Since there was affordable health insurance available to the appellant through the individual market, we need to determine if Appellant's penalty can be waived because Appellant experienced a financial hardship as defined in 956 CMR 6.08 (1) through (3).

Appellant lived with family in 2019. He had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$200; telephone/internet-\$0.00; food-\$630; clothing-\$100; car payments-\$400; car insurance-\$206; gas-\$110; paying off old credit card debt-\$500; student loan payments-\$550. Appellant spent \$500 during the year for car repairs. Appellant also spent \$11,100 on tuition and fees for undergraduate courses he took during 2019. See the testimony of the appellant which I find to be credible, and Exhibit 4.

Taking into account all of the expenses listed above, Appellant's monthly expenses amounted to about \$2,700. While Appellant's adjusted gross income was \$46,073, or about \$3,900 a month before taxes, some of his income were one-time withdrawals from a pension plan and a 401k account. In addition, Appellant had educational expenses amounting to over \$11,000. Taking into account tuition and fees, Appellant was left with about \$2,900 a month to cover basic expenses. If we consider that health insurance coverage would have cost the appellant a minimum of \$279 a month (See Table 4), Appellant would have been left with no disposable income and would have run a deficit in some month since his income varied from month to month.

Based upon these facts, I determine that Appellant had a financial hardship in 2019 such that health insurance was unaffordable for him. See 956 CMR 6.08(1) (e) which defines financial hardship as the serious deprivation of basic necessities resulting from the cost of health insurance. See also 956 CMR 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing.

Appellant's penalty is waived in full because of financial hardship.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA191051

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

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

**Hearing Date:** January 11, 2021

**Decision Date:** February 27, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 11, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on July 3, 2020 with letter in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated December 14, 2020 for January 11, 2021 hearing

### **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 26 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$35,104 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all year at the same full-time job. He earned \$17 an hour until he received a promotion in October when he began to earn \$19 an hour. Appellant began working at his job in August, 2018 (Testimony of Appellant).
5. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards all of 2018. The appellant was uninsured all of 2019. Appellant was offered health insurance through his job, but only after he had been employed there for a full year. Open enrollment was in April and at that time, he was not eligible for coverage because he had not been employed a full year. He was unable to obtain coverage through his job in 2019 (Testimony of Appellant).



6. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).
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, the appellant with no dependents claimed with an adjusted gross income of \$35,104 could afford to pay \$146 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Worcester County, could have purchased insurance for \$257 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).
9. According to Table 2 of Schedule HC for 2019, Appellant, who earned 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).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; or the sudden responsibility for providing full care for an aging parent or other family member in 2019 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
13. Appellant did incur significant and unexpected increases in essential expenses as a result of a human-caused event which caused substantial damage to Appellant's car. While Appellant's car was parked, someone drove into the car, totaling the vehicle. As a result, Appellant had to put down \$2,000 for another car and then had to pay \$556 month for a car loan. This accident occurred in February, 2019 (Testimony of the appellant).
14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$510; heat, electricity-\$90; internet-\$25; telephone-\$0.00; food-\$685; car payments-\$556 starting in February; insurance-\$530; gas-\$60; clothing-\$25.00(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. Exhibits 1, 2. Appellant had health insurance which met the Commonwealth standards all of 2018. Since Appellant is entitled to a three-month grace period after losing coverage, Appellant's penalty for January through March is waived. See the testimony of the appellant which I find to be credible, Exhibit 2. and Massachusetts General Laws, Chapter 111M, Section 2.

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 \$35,104 could afford to pay \$146 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Worcester County, could have purchased insurance for \$257 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 offered health insurance through his job, but only after he had been employed there for a full year. He had started work in August, 2018. Open enrollment was in April and at that time, he was not eligible for coverage because he had not been employed a full year. 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 \$35,104, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance during the months for which he has been assessed a penalty. See 956 CMR 12.00 et. seq.

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

Appellant had the following expenses for basic necessities in 2019: rent-\$510; heat, electricity-\$90; internet-\$25; telephone-\$0.00; food-\$685; car payments-\$556 starting in February; insurance-\$530; gas-\$60; clothing-\$25. In addition, Appellant's car was totaled when another driver hit the car while it was parked. As a result, Appellant had to put \$2,000 down on a new vehicle and had to pay \$556 a month starting in February, 2019 for car payments. See the testimony of Appellant, which I find to be credible.

Appellant's expenses, including the downpayment on a new car, came to about \$2,700 a month. His income before taxes came to about \$2,900. If we add in just the cost of health insurance (about \$146 a month—see Table 3 of 2019 Schedule HC), the appellant is left with no money with which to pay taxes and no disposable income. Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. The cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e).

In addition, pursuant to 956 CMR 6.08(1)(d)(4), the appellant suffered a financial hardship. Through no fault of his own, Appellant's car was totaled and as a result, Appellant experienced an unexpected, significant increase in

essential expenses. He had to pay \$2,000 as a downpayment for a new vehicle and he suddenly had car payments of \$556 a month.

Appellant's penalty is waived because in 2019, Appellant had financial hardships such that the cost of health insurance was unaffordable for him.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1064

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** January 13, 2021

**Decision Date:** March 15, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 13, 2021. 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 (12-15-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (9-1-20) (with documents) (8 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 30 during 2019, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$317,892.00 (Exhibit 2).
4. Appellant lived in New York from January through September 2019 and moved to Massachusetts at the end of October 2019. Appellant had health insurance in Massachusetts for October, November and December, the months she resided in Massachusetts. (Appellant's testimony, Exhibit 3).

5. 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.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage. According to Table 3, Appellant was deemed to afford \$2,119.00.
7. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
8. 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).
9. Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance for 2019 for the months they lived in Massachusetts (October through December 2019). (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. 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's 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 2019. They have been assessed a tax penalty for six months, based on if Appellant had resided in Massachusetts for the entire year of 2019. 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 \$317,892.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$2,119.00 per month; according to Table 4, Appellant, who was 30 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 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 they had only resided in Massachusetts for October through December, and they had health insurance for those months in Massachusetts. Appellant had resided in New York for January through September and was not a Massachusetts resident for those months. 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: PA19-1065

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** January 13, 2021

**Decision Date:** March 15, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 13, 2021. 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 (12-15-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Letter to Vacate Dismissal (8-25-20) (with document) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 50 during 2019, from Essex County, filed married filing separately on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January and February and August through December of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$78,086.00 (Exhibit 2).
4. Appellant had health insurance for January and February, but then worked only part time from March through July and could not afford health insurance during that time. Appellant then had health insurance again for August through the end of 2019. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, transportation, student loans and other necessities, used all of the available income during the months that Appellant did not have health insurance. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$3,100.00 per month averaged out, and Appellant's income during the months that Appellant did not have health insurance was well under \$3,100.00 per month. (Appellant's 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. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$408.00 for coverage. According to Table 3, Appellant was deemed to afford \$520.00.
8. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
9. 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).
10. 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 during 2019. (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. Appellant did not incur additional expenses as a result of a 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's 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 most of 2019, but did not have it for March through July of 2019. They have been assessed a tax penalty for two 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 overall. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$78,086.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$520.00 per month; according to Table 4, Appellant, who was 50 years old in 2019, from Essex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$408.00 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. If Appellant's income for only the months that they did not have health insurance is used, they could not afford health insurance.

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 and other necessities. Appellant's expenses for food, shelter, clothing, vehicle expenses, and other necessities used all of the income for the months that Appellant did not have health insurance. 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: 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.

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: PA19-1074

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** January 15, 2021

**Decision Date:** March 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on January 15, 2021, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. Nothing was submitted and no request was made for an extension of the deadline as a result of which the record was closed.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 48-years-old, is separated, and does not have children. (Testimony)
2. The appellant was employed in 2019 and continued to work for the same employer in 2020 and 2021. He had employer provided health insurance throughout 2019 for which he paid \$152.00/month. It is not known whether the insurance met Massachusetts minimum creditable coverage (MCC) standards. (Testimony, Exs. 1,2)
3. The appellant lived in New Hampshire from January through March, 2019 and then resided in Massachusetts for the rest of the year. (Testimony, Ex. 2)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant's friend prepared his 2019 tax returns and indicated on his Schedule HC that he was a part-year resident of Massachusetts from April through December. He further indicated that the appellant was uninsured for the entire year. (Testimony, Ex. 2)
5. The appellant does not believe that he received a 2019 Form MA 1099-HC or any other form indicating that he had health insurance coverage in 2019. (Testimony)
6. The appellant reported an adjusted gross income of \$27,358.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. Following the hearing, the record was held open until January 29, 2021 for submission of a 2019 Form MA 1099-HC. The appellant did not submit the documentation by that date nor did he request an extension of the deadline.

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 appellant submitted a statement of grounds for appeal (Ex. 1), but did not specify a ground for his appeal. He also submitted a letter from his employer which stated in part that the appellant had health insurance from January through December, 2019.

The appellant testified that he was employed in 2019 and had employer provided health insurance for the whole year. He testified that he lived in New Hampshire for the first three months of 2019 and then moved to Massachusetts for the remainder of the year. He testified that he does not believe that he received a 2019 Form MA 1099-HC. He testified that his friend prepared his 2019 tax returns and indicated on his Schedule HC that he was a part-year resident and that he was uninsured for the whole year. Finally, he testified that he has continued to work for the same employer, had health insurance coverage in 2020, and is currently insured in 2021.

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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had employer health insurance, it was not established that it met state MCC standards, and he was assessed and is appealing a penalty of seven months based on the information he provided on his Schedule HC. (Since the appellant was a part-year resident, the mandate applies to him on the first day of the third month following the month he became a resident.)

MCC is the minimum level of health insurance benefits that adult tax filers need in order to be considered insured and avoid tax penalties in Massachusetts. See 956 CMR 5.00 which establishes the criteria for the lowest threshold health benefit plan that an individual must purchase to satisfy the MCC standard.

The appellant's testimony was corroborated by a letter from his employer indicating that he had coverage for all of 2019. However, he did not receive a Form 1099-HC indicating that his plan complied with MCC requirements and his Schedule HC indicates that he had no coverage for the year. The record was left open for the appellant to determine if he could obtain the form in question from his employer. He did not respond to the request.

A negative inference can be drawn as a consequence of the appellant's failure to establish that he had MCC coverage in 2019. Notwithstanding this failure, it is recognized that he did have insurance coverage for the year and it exceeded the cost of what he is deemed able to afford pursuant to Table 3 of the Affordability Schedule (i.e., 4.20% of \$27,358.00 is \$1149.00/year which is less than the appellant's yearly payment of \$1824.00 for his employer coverage). Accordingly, based on the totality of the evidence and mindful of the equities involved, it is concluded that although it is not known whether the coverage met MCC standards, the appellant at least had some form of insurance for the year which satisfied the state's requirement to purchase affordable insurance. Furthermore, the appellant has been insured in 2020 and 2021 thereby demonstrating that the mandate to obtain insurance has not been lost on him.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by him in this appeal.

**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.

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

**ADDENDUM**

The appellant is advised not to rely on a similar extension of leniency should he be assessed and appeal a penalty for failure to obtain MCC compliant health insurance in the future.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1098

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** January 22, 2021  
**Decision Date:** March 1, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 22, 2021. 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 December 21, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated September 17, 2020
- Exhibit 4: Statement in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 36 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 of \$48,754 in 2019 (Exhibit 2).
4. Appellant worked a series of short term jobs and could not always count on having work (Testimony of Appellant).
5. Appellant was covered by health insurance through the Health Connector from February through April 2019 (Testimony of Appellant and Exhibit 2).
6. Appellant was offered a position in April and Appellant thought that Appellant would be eligible for employer sponsored health insurance (Testimony of Appellant).
7. Appellant was not offered enough hours to qualify for the employer sponsored health insurance (Testimony of Appellant).
8. Appellant did not have full-time work or access to employer sponsored health insurance in the latter part of 2019 (Testimony of Appellant).

9. During the time that Appellant did not have full-time work, Appellant struggled to pay for essential expenses, including rent, utilities, car expenses and student loan payments (Testimony of Appellant).
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 person filing as single with no dependents claimed with an adjusted gross income of \$48,754 could afford to pay \$325 per month for private insurance. According to Table 4, Appellant, age 36 and living in Suffolk County could have purchased private insurance for \$286 per month.
12. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
13. According to Table 2 of Schedule HC for 2019, Appellant, earning more than \$36,420 was not income eligible for government subsidized health insurance.
14. Appellant did not have health insurance in January and again during May through December 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for five months for 2019 (Exhibit 2).
16. Appellant filed a hardship appeal on September 17, 2020 (Exhibit 3).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain 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 five months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship 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 was considered able to afford private insurance in 2019. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant worked a series of part-time jobs in 2019. Appellant had been covered by a Health Connector plan during February through April. Appellant then started a new job and thought that Appellant would be covered by employer sponsored insurance. Appellant was not offered enough hours to qualify for the insurance. Due to Appellant’s sporadic income, Appellant struggled to pay for basic expenses. 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.

**PENALTY ASSESSED**

Number of Months Appealed: 5

Number of Months Assessed: 0

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 advised that this decision is based upon the facts as I have found them in 2019 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.**



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1099

**Appeal Decision:** Appeal Approved  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** January 22, 2021  
**Decision Date:** March 11, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 22, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Notice of Hearing sent to Appellant dated December 21, 2020  
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2019  
Exhibit 3: Notice of Appeal dated September 10, 2020  
Exhibit 4: Statement in Support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 38 years old in 2019 and filed a 2019 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2019 was \$35,620 (Exhibit 2).
4. Appellant helped care for a roommate and in exchange received a discounted rent (Testimony of Appellant).
5. Appellant did not have health insurance coverage for twelve months in 2019 (Exhibit 2 and Testimony of Appellant).
6. Employer sponsored health insurance was available at a cost of \$131 per month for Appellant (Testimony of Appellant).
7. Appellant did not sign up for the employer sponsored insurance due to the cost (Testimony of Appellant).
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. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents claimed and with a Federal Adjusted Gross Income of \$35,620 could afford to pay \$148 per month for health insurance. According to Table 4, Appellant, age 38 and living in Middlesex County, could have purchased private insurance for \$286 per month. Private insurance was not considered affordable for Appellant in 2019.

10. According to Table 2 of Schedule HC for 2019, Appellant, earning less than \$36,180 would have met the income eligibility guidelines for government subsidized insurance.

11. Appellant would have been blocked from purchasing government subsidized insurance since the cost of the employer sponsored health insurance for a single plan for Appellant was \$131 per month, which was less than 9.56% of Appellant's Modified Adjusted Gross Income See Schedule HC Health Care Table 2 and Worksheet for Line 11, and Exhibit 4.

12. Appellant had the following expenses for basic necessities in 2019: rent \$84; electricity \$55; gas \$100; telephone \$170; food \$600; supplies \$100; clothing \$35; gasoline \$130; car insurance \$100; car maintenance \$30; laundry \$61; and student loans \$73. Appellant's basic expenses were \$1,538 per month.

13. Appellant was assessed a penalty for twelve months for 2019 (Exhibit 2).

14. Appellant filed an appeal, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).

15. At the time of the hearing, Appellant was not enrolled in health insurance (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 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.

During 2019, employer sponsored health insurance was available to Appellant at cost of \$131 for a single plan for Appellant. Private insurance was available at a cost of \$290. According to Table 3 of Schedule HC for 2019, Appellant could afford to pay \$148 per month for health insurance, so private insurance was not considered affordable. Employer sponsored insurance was considered affordable. Appellant, earning less than \$36,180 was income eligible for government subsidized health insurance. However, since the cost of an individual plan under the employer sponsored health insurance was less than 9.56% of Appellant's modified adjusted gross income, the employer sponsored insurance would have blocked access to Advance Premium Tax credits and government

subsidized health insurance. See 956 CMR 6.00, 45CFR 155.305 (f)(1)(ii)(B), 26CFR 1-36B-2(c)(3)(v), Schedule HC for Healthcare, Tables 2, 3 and 4, Exhibits 2, 3 and 4, and Testimony of Appellant, which I find to be credible.

Employer sponsored health insurance was considered affordable for Appellant in 2019. Appellant had monthly expenses for basic necessities of \$1,538. Appellant's monthly pre-tax income was \$2,968. The purchase of employer sponsored health insurance would not have caused Appellant to experience a serious deprivation of food, shelter, clothing or other necessities. However, due to Appellant's circumstances, I will assess a partial penalty for 2019, and strongly encourage Appellant to immediately enroll in health insurance.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 6

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

OR

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

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

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

**ADDENDUM**

**Appellant is advised that this decision is based upon the facts as I have found them in 2019 ONLY and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years. Appellant is encouraged to either enroll in available employer sponsored health insurance, or inquire about health insurance from the Health Connector at 1 877 623-6765.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1100

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** January 22, 2021  
**Decision Date:** March 2, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on January 22, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was held open so that Appellant could submit further documents. Appellant submitted a further document and it was marked as Exhibit 5.

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 December 21, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated September 22, 2020
- Exhibit 4: Statement in Support of Appeal
- Exhibit 5: Appellant's Form MA 1099-HC

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 34 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 of \$41,526 for 2019 (Testimony of Appellant).
4. Appellant's Appeal Case Information from Schedule HC 2019, shows that Appellant was uninsured for twelve months in 2019 (Exhibit 2).
5. Appellant did have coverage that met Massachusetts minimum creditable coverage standards from January through June 2019 (Exhibit 5 and Testimony of Appellant).
6. Appellant had been a seasonal employee in early 2019 and had been covered by insurance through the Health Connector from January through June 2019 (Testimony of Appellant).

7. Appellant was promoted to a year round employee for a position to begin in July 2019 (Testimony of Appellant).
8. Appellant became eligible for employer sponsored health insurance and ended coverage with the Health Connector Plan (Testimony of Appellant).
9. Appellant was not permitted to enroll in the employer sponsored health insurance in July, for reasons that were not explained to Appellant by the employer when Appellant ended coverage through the Health Connector (Exhibit 4 and Testimony of Appellant).
10. Appellant was not able to re-enroll with the Health Connector for July because it was not an open enrollment period (Testimony of Appellant).
11. Appellant enrolled with employer sponsored health insurance beginning in January 2020 (Testimony of Appellant).
12. Appellant did not have health insurance for six months of 2019 (Testimony of Appellant and Exhibit 5).
13. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
14. Appellant filed an appeal on September 22, 2020 (Exhibit 3).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain 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. Appellant was properly insured for January through June of 2019. Appellant’s failure to have health insurance for July through December 2019 was due to not being provided proper information from Appellant’s employer when Appellant switched from a seasonal position to a year round position. Although Appellant tried to go back to the Health Connector plan, Appellant was not permitted to re-enroll because it was not an open enrollment period.

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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1114

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** February 1, 2021  
**Decision Date:** March 15, 2021

### **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 February 1, 2021. 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 January 12, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2019

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 61 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$26,707 in 2019 (Exhibit 2).
4. Appellant was covered by employer sponsored health insurance up until December 2018 (Testimony of Appellant).
5. Appellant was laid off from Appellant's job in January 2019 and lost employer sponsored health insurance (Testimony of Appellant).
6. Appellant was unemployed until late February 2018 (Testimony of Appellant).
7. Appellant began a new job in late February, but employer sponsored health insurance was not available (Testimony of Appellant).
8. Appellant applied for Health Connector subsidized insurance late in the year and began coverage in December 2019 (Exhibit 2 and Testimony of Appellant).
9. Appellant struggled to pay the bills for necessities when unemployed and fell behind on the bills for necessities (Testimony of Appellant).

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 person filing as single with no dependents claimed with an adjusted gross income of \$26,707 could afford to pay \$93 per month for private insurance. According to Table 4, Appellant, age 61 and living in Worcester County could have purchased private insurance for \$418 per month.
12. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
13. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 was income eligible for government subsidized health insurance.
14. Appellant did not have health insurance for eleven months in 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for eight months for 2019 (Exhibit 2).
16. Appellant filed a hardship appeal in 2020 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 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 eight 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 was eligible for government subsidized health insurance during the penalty months in 2019. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was unemployed during January and February. Appellant struggled to pay for basic expenses during that time period and continued to struggle to catch up on the basic expenses during 2019. 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.

### **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.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1115

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** February 1, 2021  
**Decision Date:** March 19, 2021

### **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 February 1, 2021. Appellant also appeared for Appellant spouse. Also present was a duly sworn interpreter. 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 January 12, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated September 29, 2020
- Exhibit 4: Statement in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 45 and 49 years old in 2019. Appellants filed a Massachusetts 2019 tax return as married filing jointly with no dependents claimed (Exhibit 2).
2. Appellants resided in Hampden County, MA in 2019 (Exhibit 2).
3. Appellants had an Adjusted Gross Income of \$63,126 in 2019 (Exhibit 2).
4. Appellants had been covered by health insurance in 2018 (Testimony of Appellant).
5. The price for health insurance increased substantially in 2019 and Appellants did not renew the insurance due to the cost (Testimony of Appellant).
6. Appellants looked into employer sponsored health insurance that was available through Appellant spouse's job (Testimony of Appellant).
7. Appellants were unable to enroll immediately due to a probation period (Testimony of Appellant).
8. Appellants misunderstood when they could enroll in the employer sponsored health insurance and were unable to enroll in 2019 (Testimony of Appellant).
9. Appellants began enrollment in health insurance in January 2020 (Testimony of Appellant).

10. Appellants struggled to pay for basic expenses in 2019 (Testimony of Appellant).
11. Appellants were frequently late with their rent payments in 2019 (Testimony of Appellant).
12. 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.
13. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with no dependents claimed with an adjusted gross income of \$63,126 could afford to pay \$400 per month for private insurance. According to Table 4, Appellants, ages 45 and 49 and living in Hampden County could have purchased private insurance for \$699 per month.
14. Private insurance was not considered to be affordable for Appellants in 2019 (Schedule HC for 2019).
15. According to Table 2 of Schedule HC for 2019, Appellants, earning more than \$49,380 were not income eligible for government subsidized health insurance.
16. Appellants did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
17. Appellants have been assessed a penalty for twelve months for 2019 (Exhibit 2).
18. Appellants filed a hardship appeal on September 29, 2020, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain 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.

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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellants to experience a financial hardship. See 956 CMR 6.

Appellants were not considered able to afford private insurance in 2019. Appellants also were not considered eligible for government sponsored health insurance. Employer sponsored health insurance may have been available to Appellants at some point in 2019, but there was confusion by the Appellants as to when they could enroll. Since Appellants potentially had access to affordable insurance for 2019, we need to consider whether Appellants experienced a financial hardship as defined by 956 CMR 6.08.

Appellants struggled to pay for basic expenses in 2019. They were frequently late with their rent payments. 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 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: PA19-1116

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** February 1, 2021  
**Decision Date:** March 16, 2021

### **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 February 1, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further information about Appellant's insurance coverage during August through December. Appellant submitted documents which have been marked as Exhibit 5. The record is now closed.

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, January 12, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated September 3, 2020
- Exhibit 4: Statement of Appellant in support of the Appeal
- Exhibit 5: Documents regarding Appellant's health insurance

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 26 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Plymouth County during 2019 (Exhibit 2 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2019 was \$73,840 (Exhibit 2).
4. Appellant was covered by a parent's health insurance during January through July 2019 (Exhibit 2 and Testimony of Appellant).
5. Appellant's health insurance through the parents met Massachusetts creditable coverage standards (Exhibit 2).
6. Appellant was covered by Appellant's employer sponsored health insurance during August through December 2019 (Exhibits 4, 5 and Testimony of Appellant).

7. Appellant's employer was based out of state (Testimony of Appellant and Exhibit 5).
8. Appellant provided proof of enrollment in the employer sponsored insurance plan during August through December (Exhibits 4 and 5).
9. Appellant's employer sponsored health insurance met the minimum essential coverage standard under the Affordable Care Act (Exhibit 5).
10. Appellant was unable to provide other information about the specifics of the employer sponsored coverage (Exhibit 4, 5 and Testimony of Appellant).
11. Appellant has been assessed a penalty for two months for 2019 (Exhibit 2).
12. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on September 3, 2020. The Appeal claimed that Appellant purchased employer sponsored health insurance because that is what the employer offered and circumstances prevented Appellant from buying other insurance that met the requirements (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 2016, 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). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

During January through July 2019, Appellant was covered by a parent's health insurance that met Massachusetts creditable coverage standards. From August through December, 2019, Appellant was covered by employer sponsored health insurance that did not meet the Massachusetts standards. The issue to be decided is whether the policy substantially met the Massachusetts minimum creditable coverage standards and whether Appellant's circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

During August through December, 2019, Appellant worked for an out of state employer. Appellant purchased the health insurance offered through the employer. The employer sponsored health insurance met the minimum essential coverage standards under the Affordable Care Act. The insurance did not meet the Massachusetts standards. Appellant was unable to obtain the information regarding the details of the coverage so that a determination could be made as to whether the policy substantially met the Massachusetts standards. See Exhibits 3, 4, 5 and Testimony of Appellant, which I find to be credible.

**Given these circumstances, I will waive the penalty for 2019. However, Appellant is advised that this decision is based upon the facts as I have found them for 2019 and should not assume that a similar decision will be made if Appellant fails to have health insurance that meets Massachusetts standards in the future.**

### **PENALTY ASSESSED**

Number of Months Appealed: 2

Number of Months Assessed: 0

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

OR

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

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

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

**ADDENDUM**

**If Appellant does not have access to employer sponsored health insurance that meets the Massachusetts standards, Appellant should contact the Health Connector at 1 877 623-6765 to find out about plans that do meet the standards.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA191128

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

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

**Hearing Date:** February 1, 2021

**Decision Date:** March 18, 2021

### **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 February 1, 2021. 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 March 1, 2021 to give Appellant time to submit additional evidence. A document was received on February 1st. The document received 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: Appeal Case Information from Schedule HC 2019 showing dismissal of appeal

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated January 12, 2021 for February 1, 2021 hearing

Exhibit 4: Email from Appellant to Connector Appeals Unit requesting dismissal be vacated with proof of coverage (illegible) attached

Exhibit 5: Appellant's 2019 Form MA 1099-HC

### **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 31 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$67,380 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed at a hospital all of 2019. Appellant was offered health insurance through her job (Testimony of Appellant).
5. Appellant was enrolled in a health insurance plan which met the Commonwealth's minimum creditable coverage standards through her job all year (Testimony of Appellant, Exhibit 5).



6. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 2 and 4).

### **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. According to her Massachusetts tax return for 2019, Appellant had no health insurance. See Exhibit 2. Though it is not clear from the record why, the information on Appellant’s tax return was erroneous. In fact, Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards all year. See Exhibit 5, the appellant’s 1099-HC form for 2019 which shows that Appellant had the coverage.

Pursuant to Massachusetts General Laws, Chapter 111M, Appellant’s penalty is waived in full. Only those without required coverage are subject to a penalty.

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

### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA191130

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

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

**Hearing Date:** February 1, 2021

**Decision Date:** March 22, 2021

### **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 February 1, 2021. An interpreter was also present. The procedures to be followed during the hearing were reviewed with Appellant and the interpreter who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019 showing dismissal of appeal on October 28, 2020
- Exhibit 2: Letter from Appellant to Appeals Unit dated November 15, 2020 requesting that dismissal be vacated with letter and receipts for international transfer of funds in 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated January 12, 2021 for February 1, 2021 hearing
- Exhibit 4: Appeal Case Information from Schedule HC 2019
- Exhibit 5: Final Appeal Decision dated January 4, 2018 for Tax Year 2014
- Exhibit 6: Final Appeal Decision dated November 25, 2019 for Tax Year 2018

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a married person filing separately, with two dependents claimed, was 64 years old in 2019. Appellant's dependents were adult children. Appellant and his spouse used to file their return jointly, but by the end of 2019 they had decided to separate so changed their filing status (Exhibit 4, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2019 (Testimony of Appellant, Exhibit 4).
3. Appellant had a Federal Adjusted Income of \$44,398 in 2019 (Testimony of Appellant, Exhibit 4).
4. Appellant had a full-time job working in a restaurant all of 2019. Appellant was offered health insurance through his job, but Appellant did not opt for the coverage because he felt it was too expensive. Appellant would have had to pay about \$70 a week for individual coverage and about \$120 a week for family coverage (Testimony of Appellant).
5. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 2 and 4).

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. I also take administrative notice of relevant sections of the Patient Protection and Affordable Care Act and relevant regulations, and 956CMR12.00 et. seq.

7. According to Table 3 of Schedule HC for 2019, the appellant with two dependents claimed with an adjusted gross income of \$44,398 could afford to pay \$181 per month for health insurance. According to Table 4, Appellant, 64 years old and living in Suffolk County, could have purchased insurance for \$418 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 4, Testimony of Appellant).

8. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$62,340 per year, the income limit for a household of three, would have been eligible for the ConnectorCare program based upon income. However, since Appellant was married, but filed his taxes as a married person filing separately, Appellant would have been ineligible for the coverage (Table 2 of Schedule HC-2019, Exhibit 4, 956CMR12.00et. seq. and 26 CFR 1.36B-2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices for basic utilities during 2019 (Testimony of Appellant).

12. Appellant did not fall more than 30 days behind in rent payments during 2019 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent- \$1,500; heat and electricity-\$200; telephone/internet-\$130; food, household supplies-\$900; clothing-\$92; public transportation-\$80(Testimony of Appellant).

14. Appellant sent \$15,000 out of the country to help pay for his mother-in-law's nursing home care (Testimony of Appellant, Exhibit 2).

## **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. Pursuant to 26 CFR 1.36B-2(b)(2), married couples must file their Federal tax return jointly in order to be eligible for an advance premium tax credit.

Appellant was uninsured all of 2019. He has been assessed a penalty for twelve months. Appellant has appealed the assessment. See Exhibits 2, and 4. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2019, the appellant with two dependents claimed with an adjusted gross income of \$44,398 could afford to pay \$181 per month for health insurance. According to Table 4, Appellant, 64 years old and living in Suffolk County, could have purchased insurance for \$418 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

According to Table 2 of Schedule HC for 2019, Appellant earning less than \$62,340 per year, the income limit for a household of three, would have been eligible for the ConnectorCare program based upon income. However, since Appellant was married, but filed his taxes as a married person filing separately, Appellant would have been ineligible for the coverage. Individuals who have ConnectorCare coverage are recipients of advance premium tax credits through the Patient Protection and Affordable Care Act. In order to be eligible for the tax credits, individuals who are married must file Federal tax returns jointly . Since the appellant who is married did not file jointly with his spouse, the appellant would not have been eligible for an advance premium tax credit and, therefore, would not have been eligible for ConnectorCare coverage. See the testimony of the appellant which I find to be credible, Table 2 of Schedule HC-2019, Exhibit 4, and 26 CFR 1.36-2 (b)(2).

Appellant had no access to affordable health insurance through employment. Insurance through the appellant's job would have cost the appellant approximately \$300 a month. According to Table 3 of Schedule HC for 2019, the appellant could only afford to spend \$181 for monthly premiums. See the testimony of the appellant which I find to be credible and Table 3.

Appellant's penalty is waived in full because there was no affordable health insurance available to the appellant. Insurance through employment and the individual market was not affordable; insurance through the Connector Care program was unavailable for the appellant because of his tax filing status. There is no evidence in the record that any other government-sponsored health insurance was available to the appellant.

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

#### **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1134

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** February 2, 2021

**Decision Date:** March 30, 2021

### **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 February 2, 2021, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Final Appeal Decision in PA12-1811 dated August 27, 2015
- Ex. 3—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 4—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. Nothing was submitted and no request was made for an extension of the deadline as a result of which the record was closed.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 36-years-old, is single and does not have children. He resided in Essex County in 2019. (Testimony, Ex. 3)
2. The appellant was unemployed from January through March, 2019. He was employed from April through December, 2019 and continued in that position until he was laid off in February, 2020. (Testimony)
3. The appellant believed that he had employer health insurance from July through December, 2019, although he was unaware at the time that he was insured. He had no occasion to use health insurance

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

during the year, and knew that certain deductions were taken from his pay, but did not know what they were for. (Testimony)

4. The appellant prepared his 2019 tax returns with some assistance. He received a 2019 Form 1095-C, but did not review it and gave it to his mother to be filed with other personal documents. He indicated on his Schedule HC that he was uninsured for the entire year. (Testimony, Ex. 3)
5. The appellant reported an adjusted gross income of \$20,369.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 3)
6. The appellant was assessed a 12-month penalty for not having health insurance in 2012. He filed an appeal of the penalty and a hearing was held. The hearing officer determined that he would have been eligible for subsidized insurance and that the expense of purchasing insurance would not have caused a financial hardship. The 12-month penalty was upheld. (Ex. 2)
7. The appellant lived with his parents in 2019 and had minimal living expenses. He gave them \$600.00/month for rent and other household items. (Testimony)
8. In 2019, the appellant had regular monthly expenses of approximately \$1400.00 for rent and other household items (\$600.00), automobile insurance (\$150.00), cell phone (\$50.00), gasoline (\$200.00) and food (\$400.00). (Testimony)
9. After the appellant was laid off from his job in February, 2020, he was unemployed for the rest of the year. He had some health issues which required surgery and he obtained health insurance through MassHealth which was still active at the time of the instant hearing. (Testimony)
10. Following the hearing, the record was held open until February 16, 2021 for submission of a 2019 Form 1095-C. The appellant did not submit the documentation by that date nor did he request an extension of the deadline.

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 appellant submitted a statement of grounds for appeal (Ex. 1), but did not specify a ground for his appeal. He indicated on his statement that he has been unemployed since February, 2020.

The appellant testified that he was employed from April through December, 2019 and believed that he had employer health insurance during that period. He testified that he did not have occasion to use insurance in 2019, and he knew that certain deductions were made from his pay. He testified that he received a 2019 Form 1095-C



which he gave to his mother for filing. He testified that he prepared his 2019 tax returns and indicated on his Schedule HC that he was uninsured for the whole year. He testified that he has laid off in February, 2020 and was unemployed for the rest of the year. Finally, he testified that he had some health issues in 2020 and was able to enroll in MassHealth which continued to the present.

The appellant did not submit any documentation in response to the Open Record Request for proof of employer health insurance, and it is therefore concluded that he 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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The evidence provided by the appellant established that his income for 2019, \$20,369.00 was less than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$18,211.00 and \$24,280.00 is deemed to be able to afford a monthly premium of \$49.23 (2.90% of \$20,369.00/12). Table 4 of the Premium Schedule indicates that a 35-year-old individual (the age of the appellant in 2019) in Essex County (where the appellant resided in 2019) could have purchased private health insurance for \$286.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$49.23 per month, pursuant to the aforementioned Affordability Schedule in Table 3. <sup>2</sup>

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 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 appellant's 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 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 waive his penalty for the months in question. The appellant testified that in 2019 he incurred basic monthly expenses of approximately \$1400.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$1697.00, thereby making a subsidized insurance premium of \$49.23/month seemingly manageable, the difference of \$297.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

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<sup>2</sup> The appellant's eligibility for subsidized health insurance is based on the assumption that either employer health insurance was not offered to the appellant or that it was not affordable.

While the appellant will not be subject to a penalty based on the foregoing analysis, it is noted that his failure to respond to the Open Record Request weakened his credibility. In addition, as pointed out in Footnote #2, the waiver of the penalty is predicated on the assumption that he did not have access to affordable employer health insurance.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2019, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_\_ 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: PA19-1136

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** February 2, 2021

**Decision Date:** March 5, 2021

### **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 February 2, 2021, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—2019 Form 1095-C
- Ex. 3—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 4—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 4—2019 Form MA 1099-HC
- Ex. 5—2019 Form 1095-C

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 27-years-old, is single and does not have children. She had minimum essential coverage (MEC) health insurance for January and February, 2019, and had minimum creditable coverage (MCC) health insurance from March through December, 2019. (Testimony, Exs. 4,5)

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<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2019 Massachusetts income tax return. It also contains information about prior appeals, if any.

2. The appellant was insured under her parents' health insurance plan for January and February, 2019. She turned 26-years-old on February 24, 2019, and was no longer eligible after February for coverage through her parents. (Testimony, Ex. 5)
3. Subsequent to turning 26, the appellant enrolled in employer health insurance in March and remained enrolled for the rest of the year. (Testimony, Ex. 4)
4. The appellant prepared her tax returns for 2019 and mistakenly indicated on her Schedule HC that she did not have MCC health insurance for the entire year. (Testimony, Ex. 2)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), but did not specify a ground for her appeal. She also submitted a letter with her statement in which she stated in part that she had health insurance coverage for all of 2019.

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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had MEC insurance for January and February, and MCC insurance from March through December, she was assessed and is appealing a penalty of twelve months based on the information she provided on her Schedule HC.

The appellant testified credibly that she had health insurance under her parents' plan for January and February. She testified that she turned 26 in February and was no longer eligible for coverage under their plan. She testified that she enrolled in employer health insurance in March for the remainder of the year. Finally, she testified that she prepared her 2019 tax returns and mistakenly indicated on her Schedule HC that she was uninsured for the entire year.

The appellant's testimony was corroborated by a Form 1095-C showing that she had MEC insurance under her parents' policy for January and February, and a Form MA 1099-HC which indicated that she had MCC insurance for the months of March through December. With respect to the coverage through her parents, insurance that meets MEC requirements under the Affordable Care Act does not necessarily comply with MCC standards required by Massachusetts law. However, since the appellant had MCC-compliant insurance for ten months of the year, she is entitled to the aforementioned three-month gap, thereby eliminating any need to analyze whether her MEC insurance for the first two months of 2019 satisfied state standards. Accordingly, she is not subject to a penalty.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 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: PA181142

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

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

**Hearing Date:** February 8, 2021

**Decision Date:** March 31, 2021

### **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 February 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellant on April 13, 2020 with letter in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2018

Exhibit 3: Notice of Hearing sent to Appellant dated January 12, 2021 for February 8, 2021 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as Head of Household with one dependent claimed, was 61 years old in 2018 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2018 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$38,002 in 2018 (Testimony of Appellant, Exhibit 2).
4. Appellant was a substitute teacher in 2018. Appellant was on call. As a substitute teacher, the appellant had no regular work schedule and no work or source of income during school vacations and the summer. Appellant was not offered health insurance by the school system (Testimony of Appellant).
5. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from January through April, 2018. The appellant was uninsured the rest of the year (Testimony of Appellant, Exhibit 2).
6. Appellant has been assessed a penalty for August through December, 2018. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant with one dependent claimed with an adjusted gross income of \$38,002 could afford to pay \$197 per month for health insurance. According to Table 4, Appellant, 61 years old and living in Suffolk County, could have purchased insurance for \$1,003 per month for a plan for a head of household with one dependent. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2018 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2018, Appellant, who earned less than \$48,720 per year (the income cap of a family of two), would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; or the sudden responsibility for providing full care for an aging parent or other family member, or a human-caused or natural event which caused personal or household damage in 2018 (Testimony of Appellant).

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

12. Appellant received a shut-off notice for natural gas in 2018 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2018: mortgage, property taxes, home owner's insurance, electricity, heat, and water-\$2,500; telephone-\$30; food-\$430; car insurance-\$60; gas-\$90; clothing-\$35. The appellant also gave financial support to an older brother who lived with the appellant (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

The appellant has been assessed for a penalty August through December, 2018. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had health insurance which met the Commonwealth standards from January through April. Since Appellant is entitled to a three-month grace period after losing coverage, Appellant's penalty

for May through July is waived. See the testimony of the appellant which I find to be credible, Exhibit 2 and Massachusetts General Laws, Chapter 111M, Section 2.

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 2018, the appellant with one dependent claimed with an adjusted gross income of \$38,002 could afford to pay \$197 per month for health insurance. According to Table 4, Appellant, 61 years old and living in Suffolk County, could have purchased insurance for \$1,003 per month for a plan for a head of household with one dependent. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2018. Appellant worked as a substitute teacher and was not offered health insurance by the school system. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. Appellant's annual Federal Adjusted Income was \$38,002, less than the income limit for a household of two (\$48,720). The appellant also had no access to employer-sponsored insurance during the months for which Appellant has been assessed a penalty. See 956 CMR 12.00 et. seq.

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

Appellant had the following expenses for basic necessities in 2018: mortgage, property taxes, home owner's insurance, electricity, heat, and water-\$2,500; telephone-\$30; food-\$430; car insurance-\$60; gas-\$90; clothing-\$35. The appellant also gave financial support to an older brother who lived with the appellant. See the testimony of Appellant, which I find to be credible.

Appellant's expenses came to about \$3,150 a month. His income before taxes came to about \$3,165. If we add in just the cost of health insurance (about \$197 a month—see Table 3 of 2018 Schedule HC), the appellant is left with no money with which to pay taxes and no disposable income. Appellant would run a deficit each month. Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. The cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e).

In addition, pursuant to 956 CMR 6.08(1)(b), the appellant suffered a financial hardship. Appellant's natural gas services were shut off during the year. The shutoff constitutes a financial hardship.

Appellant's penalty is waived because in 2018, Appellant had financial hardships such that the cost of health insurance was unaffordable for the appellant.

Appellant should note that any waiver granted here is for 2018 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.



## **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit