

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-10

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

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on April 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

**FINDINGS OF FACT**

The record shows, and I so find:

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

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

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

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

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

The Appellant as grounds for her appeal, submitted: Other: . . . [that you didn't reside in Massachusetts during your period of uninsurance as grounds for her appeal. (Testimony, See Exhibits 2, 2(a)-PP1-5 showing the Appellant's receiving mail in Florida from April through July 2019).

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

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

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

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

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

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

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

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

The Appellant's penalty is, therefore, waived.

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



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-13

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

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

**Hearing Date:** April 23, 2020

**Decision Date:** May 22, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on April 23, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

The record was left open until May 8, 2020 for proof of Appellant's enrollment in Spouse's Student Health Insurance. The Hearing Officer received the Appellant's Fax received by the Connector on April 24, 2020, with the following documents:

- Exhibit 4: Personal Loan Account Statements dated: 12/17/19 (5PP).
- Exhibit 5: Medical Insurance on Line Payment History referencing hospital and physician Services 4/14/19-9/17/19 (2PP).
- Exhibit 6: Credit Union Auto Statement dated 5/1/20. (3PP).
- Exhibit 7: 3 Handwritten Rent Receipts dated Feb. 3, 2019. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 36 in 2019, lived in Middlesex County, and had no dependents. (Exhibit 1).

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

2. Appellant testified he resigned from his existing job and took a new August 2019 with a \$20,000 reduction in compensation. (Testimony).
3. Appellant stated because of school loans and rent he could not afford to obtain health insurance coverage. (Testimony of Appellant).
4. Appellant testified he investigated obtaining employer health insurance with his new employer but had a waiting period. (Testimony of the Appellant).
5. Appellant testified the cost of a new employer plan commencing in November 2019 was approximately \$350 a month but he could not afford the cost. (Testimony).
6. Appellant testified he investigated public health insurance but did not qualify because of his income. (Testimony).
7. Appellant testified he was paying off school loan at \$415.75/month and with an approximate balance of \$60,000.
8. Appellant testified he was paying off a personal loan for his education at \$901.80/month with an approximate balance of \$45,712 as of December 2019. (Testimony of Appellant, Exhibit 4).
9. Appellant testified he was paying medical bills at approximately \$1,000 a month. (Testimony, Exhibit 5).
10. Appellant's Federal Adjusted Gross Income for 2019 was \$ 102,197 (Exhibit 1).
11. Appellant testified he could not afford insurance during the time because the premiums would not have allowed him to pay for basic necessities including rent. (Testimony of Appellant, Exhibit 2(a), P.1).
12. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,600, Utilities: \$175, Food/Incidentals: \$500, Transportation(Tolls) Costs: \$200, Cell Phone \$55, Student Loan \$415.75, Loan: \$901.80, Car Payment \$257.78, Car Insurance \$65, Gas \$90, totaling \$4,260/month. (Testimony of Appellant).
13. Appellant has been assessed a tax penalty for eight (8) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
14. According to Table 3 Appellant could have afforded \$681.31 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for himself for \$ 257.00 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

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

The appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

The appellant testified credibly that he was employed from January through July during which time he had employer health insurance. He testified that he got another job in August, but did not enroll in employer health insurance when he became eligible in November because he could not afford the cost. He testified that he investigated insurance options through the Health Connector but his income was too high.

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$102,197.00 in 2019 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person and he could have afforded \$681.31 per month to purchase affordable insurance. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual’s adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income of \$102,197.00 and higher is deemed to be able to afford a monthly premium of \$681.31 (8.0% of \$102,197.00). According to Table 4, Appellant, age 36 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month, less than the monthly amount deemed affordable from Table 3. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Where Individual coverage was affordable through the individual market for the Appellant in 2019, we need to determine if he experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2019 could be waived if he experienced financial circumstances such th19at the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant testified that he had the following monthly expenses for basic necessities in 2019: Rent: \$1,600, Utilities: \$175, Food/Incidentals: \$500, Transportation(Tolls) Costs: \$200, Cell Phone \$55, Student Loan \$415.75, Loan: \$901.80, Car Payment \$257.78, Car Insurance \$65, Gas \$90, totaling \$4,260/month. (Testimony of Appellant).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2019 he incurred basic monthly expenses of approximately \$4,260.00. Those expenses were significantly less than his regular monthly pre-tax income of approximately \$8,516.42.00, thereby making a private health insurance premium of \$257.00/month manageable, even with the additional school loan and personal payments of \$1,316.00/month factored in. It does not appear on its face that the payment of \$257.00/month for health insurance would have caused an undue hardship.

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

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is denied for the two months for which he was assessed.

#### **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

#### **ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-45

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

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

**Hearing Date:** April 28, 2020

**Decision Date:** April 30, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on April 28, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

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

**FINDINGS OF FACT**

The record shows, and I so find:

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

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

Months averaged annually: \$205, Dental Insurance \$50, Credit Card \$143: totaling \$3,328. /month. (Testimony of Appellant).

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

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

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

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

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

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

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

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

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

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

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

Appellant was not offered health insurance through her job.

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

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019: Rent: \$1,300, Utilities: \$200., Cable Internet: \$180, Food/Incidentals: \$600, Car Payment: \$350, Car Insurance \$100, Gas: \$200, Day Care Summer Months average annually: \$205, Dental Insurance \$50, Credit Card \$143: totaling \$ 3,328 month. (Testimony of Appellant). During the year the Appellant also had monthly payment plan for dental work \$143 commencing in December. (Testimony of Appellant).

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the appellant had as serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellant. In 2019, almost of all her monthly income was spent on basic necessities for her and her grandchild. The appellant's average monthly gross income of \$3,612 was subsumed in her basic expenses not including child care, leaving the appellant without any disposable income. It is concluded that the appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

## **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-66

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

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

**Hearing Date:** May 13, 2020

**Decision Date:** May 28, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 13, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 2/25/2020. (2 PP).
- Exhibit 3: Notice of Hearing dated April 6, 2020. (3PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 30 in 2019, lived in Brookline, MA Norfolk County, and had no dependents. (Testimony, Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$25,427 (Exhibit 1).
3. Appellant testified she left her employment her employment in May 2019. (Appellant's Testimony).
4. Appellant testified she was not employed again until mid-December 2019. (Appellant's Testimony).
5. Appellant testified she obtained employer health insurance in January 2020 after a short waiting period.
6. Appellant testified she was focusing on looking for new employment during the time she was uninsured. (Appellant's Testimony).

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

7. Appellant testified she lived off of her savings account during the time she was unemployed. (Appellant's Testimony).
8. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$700, Utilities: \$50., Cell Phone \$80, Student Loans \$ 150, Credit Card \$100, Food/Incidentals: \$300: totaling \$1,380 /month. (Testimony of Appellant).
9. Appellant has been assessed a tax penalty for four (4) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
10. According to Table 3 Appellant could have afforded \$88.99 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for herself for \$257 per month.
11. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

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

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

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$25,427.00 in 2019 and could have afforded \$88.99 per month to purchase affordable insurance. According to Table 4, Appellant, age 30 and living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).



Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-68

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** May 13, 2020  
**Decision Date:** May 28, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on May 13, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.i(1P).
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on February 24, 2020. (2PP).
- Exhibit 2(a) Appellant's Documents in Support of Appeal (1P).
- Exhibit 3: Notice of Hearing dated April 6, 2020. (3PP).

The record was left open until May 27, 2020 for the Appellant to submit proof of insurance coverage through his Step Father's Insurance. The Appellant submitted the following:

- Exhibit 4: 2019 Form MA 1099-HC Documentation regarding Proof of Appellant's Coverage through Appellant's Step Father's Health Insurance submitted on May 15, 2020(1P).
- Exhibit 5: Appellant's Blue Cross Blue Shield Card submitted on May 15, 2020 (1P).
- Exhibit 6: 2019 Form MA 1099-HC Documentation regarding Proof of Appellant's Coverage through his Employer's Health Insurance submitted on May 15, 2020(1P).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 23 in 2019, lived in Essex County, and had no dependents. (Exhibit 1, Testimony of Appellant).

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

2. Appellant was a full-time student until he graduated in June 2019. Appellant began working full time in June 2020 and obtained employer health insurance. (Exhibits 1, 6, Testimony of Appellant).
3. Appellant testified he had been insured through his Step Father's insurance company from January through October in 2019. (Testimony of Appellant, Exhibits 4 and 5).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$37,356 (Exhibit 1).
6. Appellant has been assessed a tax penalty for two (2) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$600/month.
8. According to Table 3 Appellant could have afforded \$231.91 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
9. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

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

The appellant did not submit grounds with his appeal but included correspondence in the appeal but testified credibly that he had insurance during the time he was being penalized through his Step Father's employer health insurance. (See Exhibits 2(a), 4, 5).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that he had health insurance through his step father's employer health insurance. (Testimony of Appellant).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$37,356 in 2019 and could have afforded \$231.91 per month. According to Table 4, Appellant, age 23 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per

month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

Appellant testified credibly that he had insurance during the time he was being penalized through his Step Father's employer health insurance. (Exhibits 2(a), 4, and 5. The 23 year-old Appellant credibly testified he was a student during the time he was covered under his Step Father's plan. The Appellant went on to obtain employer health insurance when he obtained full time employment in June 2019(Exhibit 6). I determine that pursuant to 956 CMR 6.08 (3), the Appellant had health insurance.

The Appellant's penalty is, therefore, waived.

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

### **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

### **ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1123

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

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

**Hearing Date:** May 13, 2020

**Decision Date:** May 29, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant Wife appeared at the hearing, which was held by telephone on May 23, 2020. The Appellant Spouse was not present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2019.1(1P)
- Exhibit 2: Statement of Grounds for Appeal 2019 signed by Appellant on March 1, 2020. (2PP).
- Exhibit 2(a) Appellant's Supporting Correspondence and Documentation 1095B and 1099C. (4PP).
- Exhibit 3: Notice of Hearing dated April 6, 2020. (3PP).

The record was left open until May 27, 2020 for the Appellant to submit proof of the extraordinary out of pocket premiums she paid to retain her employer health insurance coverage. The Appellant submitted the following:

- Exhibit 4: Documentation from Appellant's Prior Employer regarding the Appellant's cost of private of health insurance premiums during the Appellant's Leave dated June 6, 2019. (1P)

**FINDINGS OF FACT**

The record shows, and I so find:

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

1. The Appellants, who filed a 2019 Massachusetts tax return reported they was married, were ages 31(Wife) and 31 (Spouse) respectively in 2019, lived in Bristol County, and had one (1) dependents. (Exhibit 1, Testimony of Appellant).
2. The Appellant Wife went on maternity leave from her Employer in March and was covered under Employer's health insurance until the time she left employment in June 2020. (Exhibit 2(a) 1095-B, Testimony of Appellant).
3. The Appellant Wife did not return to work with her employer and obtained MassHealth for her Child in May 2020. Appellant's Spouse worked part time as independent contractor for a driving service and was not offered health insurance.
4. The Appellant during the time she was covered by her prior employer paid a premium of approximately \$50 per week but was unable to afford the family premium to insure her husband.
5. The Appellant. while she was employed added her infant daughter to her employer coverage increasing the premium to approximately \$120/week, but the additional premium to insure her Spouse at an addition \$80/week was unaffordable (Testimony of Appellant, Exhibit. 2(a), P.1).
6. Appellant Spouse was able to obtain government sponsored insurance in June 2019. (Appellant Testimony, Exhibit 2(a)).
7. The Appellant Wife was able to return to different employment in November 2020 but had a three (3) month waiting period to obtain employer health insurance. (Testimony of Appellant).
8. The Appellant Wife testified that the cost of health insurance through her prior employer (a startup) was prohibitively expensive to add family members resulting in a substantial monthly increase in the cost of premiums. The Appellant also testified the deductibles were prohibitively high at approximately \$3,000. (Testimony of Appellant, Exhibit 2(a), Exhibit 4).
9. The Appellants' Federal Adjusted Gross Income for 2019 was \$32,684 (Exhibit 1).
10. The Appellant's Spouse has been assessed a tax penalty for two (2) months in 2019. The Appellants have appealed this assessment (Exhibits 1, 2).
11. The Appellants had the following monthly expenses for basic necessities in 2019: Rent \$800/month, Utilities (Electric Heat, Gas) \$200/month, Car Insurance \$312/month, Food/Incidentals \$600.00, Cell Phone \$100/month, Cable- Internet: \$150/Month, Credit Card \$150/month, Student Loans \$600/month, Infant Formula \$300/month, totaling \$3,212/month. (Testimony of Appellant, Exhibit 2(a), P.1).
12. The Appellant had private payment of health insurance premiums of approximately \$1,800 due to her prior employer for premiums due during the time she was on maternity leave (Testimony of Appellant, Exhibit 4).
13. According to Table 3, the Appellants could have afforded \$136.18 per month for government-sponsored program health insurance in 2019. According to Table 4, the Appellant Spouse could have purchased individual private market insurance for \$279.00 per month.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant Spouse has been assessed a tax penalty for two (2) months in 2019. Appellants have appealed the penalty. The Appellants submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to them during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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 Appellants’ 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 Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

The Appellant credibly testified that her employer health insurance for her Spouse was unaffordable given the increased cost of the family plan after having added her infant to the Employer plan in March. (Testimony of Appellant). She testified that her employer was a startup and the cost of adding a full family including her husband was unaffordable at approximately \$200/week or over \$800/month.

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$32,684.00 in 2019 and could have afforded \$136.18 per month. According to Table 4, the Appellants, both age 31 and living in Bristol County during the time the Appellant’s Spouse was being penalized for not having insurance, he could have purchased private market individual plan insurance for \$279.00 per month. Coverage was not affordable through the private market for the Appellant Spouse in 2019 (Schedule HC for 2019).

Appellant Spouse had access to health insurance through the ConnectorCare program. See Table 2 of Schedule HC. Since Appellant had access to insurance through the ConnectorCare program, we need to

determine if they experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08. et. seq.

Appellants had the following monthly expenses for basic necessities in 2019: Rent \$800/month, Utilities (Electric, Heat, Gas) \$200/month, Car Insurance \$312/month, Food/Incidentals \$600.00, Cell Phone \$100/month, Cable Internet: \$150/Month, Credit Card \$150/month, Student Loans \$600/month, Infant Formula \$300/month, totaling \$3,212/month. Appellant had to pay back private payment of health insurance premiums of approximately \$1,800 for the time she was on maternity leave. (Testimony of Appellant, Exhibit 4). Those expenses were subsumed in the Appellants’ regular monthly pre-tax income, thereby making coverage under the Connectorcare program with premium of \$136.18/month or for additional family coverage under the Appellant Wife’s prior employer plan at an additional \$80/week for the Appellant Spouse unaffordable. (Exhibit 2, Testimony of Appellant).

Moreover, the Appellant credibly testified that the cost of basic monthly expenses for necessities forced them to make choices to pay for living expenses and including their infant’s formula rather than purchasing health insurance. Accordingly, it is concluded that the appellants established through substantial and credible evidence that they experienced a financial hardship within the meaning of 956 CMR 6.08(1) (e)), (2), and (3), and that the cost of purchasing health insurance through the Appellant’s prior employer, or through a government sponsored program, would have caused the Appellants to experience a serious deprivation of basic necessities. As a result, they should not be subject to a penalty.

The Appellant’s penalty is, therefore, waived.

Appellants 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:   0        Number of Months Assessed:   0  

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA16-797

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 17, 2020

**Decision Date:** May 21, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 17, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-10-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2016 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (1-29-20) (with letter) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 25 during 2016, from Hampden County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for January through June of 2016 through the Appellant's mother's employer, but did not have health insurance for the remaining months of 2016. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2016 was \$28,704.00 (Exhibit 2).
4. Appellant's employer did not provide health insurance. (Appellant testimony).
5. Appellant was homeless during 2016, and was not aware that the health insurance had ended until the end of 2016. (Appellant testimony).

6. Appellant now has health insurance through the Appellant's employer. (Appellant testimony).
7. Appellant's expenses for food, shelter, clothing, and other necessities used significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$1,500.00 per month averaged out, or \$18,000.00 for the year (Appellant's Testimony, Exhibit 3). While Appellant may have qualified for ConnectorCare, Appellant was not aware that the health insurance had terminated. (Appellant Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$143.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$100.00.
10. Private insurance was not affordable for the Appellant in 2016 (Schedule HC for 2016).
11. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore would likely have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2016).
12. Appellant claimed that they should be granted a waiver based on the grounds that they were homeless, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2016 (Exhibit 3).
14. Appellant was homeless in 2016. (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2016 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for January through June of 2016, but did not have health insurance for the remainder of 2016. They have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2016. According to Tables 3 and 4 of the HC Schedule for 2016, Appellant, with an adjusted gross income of \$28,704.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$100.00 per month; according to Table 4, Appellant, who was 25 years old in 2016, lived in Hampden County and filed the 2016 Massachusetts taxes as single with a family size of 1, would have had to pay \$143.00 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 were homeless, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant was homeless for all of 2016, and Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. Appellant has health insurance now through the employer. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2016 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

**PENALTY ASSESSED**

Number of Months Appealed: 3      Number of Months Assessed: 0

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

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

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

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: PA19-16

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 17, 2020

**Decision Date:** May 14, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 17, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-10-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-20-20) (with documents) (6 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 38 during 2019, from Essex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$54,785.00 (Exhibit 2).
4. Appellant had prior payments due that were taken from the tax refund for 2019. (Appellant testimony).
5. Appellant now has health insurance currently through the employer. (Appellant testimony).
6. Appellant's expenses for food, shelter, clothing, child support and child expenses and other necessities used most of the income (Appellant's Testimony). The monthly expenses for food,

shelter, clothing, child support and child expenses, and other necessities, totaled \$4,265.00 per month averaged out, or \$51,180.00 for the year (Appellant's Testimony, Exhibit 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$286.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$365.00.
9. Private insurance was affordable for the Appellant in 2019 (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

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

Private insurance was 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 \$54,785.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$365.00 per month; according to Table 4, Appellant, who was 38 years old in 2019, lived in Essex County and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$286.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for food, shelter, clothing, child support and child expenses, and other necessities used most of the income. Appellant has health insurance now through the employer. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2019 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:      Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-50

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 8, 2020

**Decision Date:** May 12, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 8, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated February 25, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 28, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$37,733 (Exhibit 2).
4. The Appellant did not have health insurance for the period of January through July in tax year 2019 and is being assessed a four-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 3, 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.

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$37,733 could afford to pay \$234 per month for health insurance. In accordance with Table 4, the Appellant age 28, living in Suffolk County, could have purchased private insurance for \$257 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
8. The Appellant testified that they came to Massachusetts in September 2018 to participate in an internship program that ended in May 2019. The Appellant said that they believed they were covered under an out of state insurance policy, but this was not the case. The Appellant said that they decided to stay in Massachusetts and found a job in May. There was a three-month waiting period to enroll in health insurance. The Appellant said that they enrolled as soon as they were eligible in August 2019 (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019sps because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified to having substantial living expenses in tax year 2019. The Appellant struggled to meet these expenses with their limited income. I found the Appellant credible (Appellant Testimony).
11. During the period of January through July 2019 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (Exhibits 2, 3, 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$37,733 could afford to pay \$234 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer sponsored insurance during the period of January through July 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$37,733 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019.

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

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

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-51

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** May 8, 2020

**Decision Date:** May 12, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 8, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on February 25, 2020, with an attached letter in support of this appeal.
- Exhibit 4: A copy of Final Appeal Decision for tax year 2017 dated December 3, 2018.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 27 years old in October 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$62,674 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$62,674 could afford to pay \$418 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Norfolk County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they work as a nurse but the company they worked for did not offer health insurance. The company was purchased by another company in July 2019 and this company also did not offer health insurance (Appellant Testimony).
10. The Appellant testified that they had looked in to purchasing health insurance but the plans had high deductibles as well as a monthly premium. The Appellant initially said the deductible was \$6,000 and later said it was \$4,000. The Appellant said that they would never have reached the deductible amount and decided to pay out of pocket for their annual check-up (Appellant Testimony).
11. The Appellant lives in shared housing with their parents. The Appellant's 2019 monthly living expenses of \$1,980 included: rent and utilities-\$600; car loan-\$200; car insurance-\$120; telephone-\$120; gasoline-\$303; food-\$433 and student loans of \$204. In addition to living expenses the Appellant testified that they were taking online classes and paying \$1,000 every other month for tuition and books because they did not want to incur additional education debt (Appellant Testimony).
12. In tax year 2019 the Appellant did not face eviction, did not receive any utility shut off notices, did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster and did not incur significant expenses as a result of a family emergency (Appellant Testimony).
13. Given the Appellant's average monthly income of \$5,223, living expenses of \$1,980 and the fact that private insurance was available at a cost of \$257 per month, the Appellant has failed to demonstrate that purchasing health insurance would have caused the Appellant to experience financial hardship even considering the educational expenses of \$1,000 every other month.

## **ANALYSIS AND CONCLUSIONS OF LAW**

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L.c. 111M, § 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$62,674 could afford to pay \$418 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Norfolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant’s income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant testified that they did not have access to affordable employer sponsored insurance in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant’s 2019 adjusted gross income was \$62,674. The Appellant testified that they applied for health insurance through the Health Connector but chose not to purchase insurance because the plan deductibles were too high. The Appellant said that they did not feel they would meet their deductible and decided to pay out of pocket for their check-up. The Appellant lives with their parents and testified to monthly living expenses totaling \$1,980. In addition to these expenses the Appellant was enrolled in online classes paying \$1,000 every other month out of pocket in order to avoid additional student debt. The Appellant was not facing eviction, did not receive any utility shut off notices and did not incur significant and unexpected expenses due to a family emergency, natural or other human caused disaster. Given that in accordance with Table 4 of Schedule HC for 2019, the Appellant could have purchased private health insurance for as low as \$257 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld.

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-52

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 8, 2020

**Decision Date:** May 12, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 8, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on February 19, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 37 years old in January 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$53,180 (Exhibit 2 and Appellant Testimony).
4. The Appellant had health insurance for the months of September through December but did not have insurance for the period of January through August in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$53,180 could afford to pay \$354 per month for health insurance. In accordance with Table 4, the Appellant, age 37, living in Middlesex County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they lost their full-time job in December 2018. The Appellant explained that they worked for a Temp Agency starting in January. There was a three-month waiting period to qualify for health insurance for the temporary to permanent position they held in the first part of the year. The job ended in April before the Appellant was eligible for health insurance. The Appellant said that they attempted to obtain insurance through the Health Connector but missed open enrollment and their application was denied. The Appellant said that they started another job in May and again there was a three-month waiting period for health insurance. The Appellant enrolled in health insurance in September as soon as they were eligible. I found the Appellant's testimony credible.
10. I take Administrative Notice that the Open Enrollment Period to obtain health insurance through the Health Connector was November 1, 2018 through January 23, 2019.
11. The Appellant's 2019 monthly expenses of \$1,973 included: rent-\$750; heat; -\$175; electricity-\$100; telephone-\$70; car insurance-\$70; gasoline-\$115 and food-\$693.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant had health insurance for the period of August through December but did not have health insurance for the eight-month period of January through July in tax year 2019. The Appellant has been assessed a five-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship and other circumstances. To determine if the penalty should be waived in whole or in part, there must be an

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$53,180 could afford to pay \$286 per month for health insurance. According to Table 4, the Appellant, age 37, living in Middlesex County, could have purchased a private insurance plan for \$286 per month. See Schedule HC for 2019. Private insurance was affordable for the Appellant in tax year 2019.

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

The Appellant testified credibly that they lost their full-time job in December 2018. The Appellant began working for a Temp Agency in January 2019. The Appellant was placed in a temporary to permanent position in January 2020 and was informed that after three months they would be eligible for health insurance. In April 2020, this job ended. The Appellant did secure another placement, but again, there was a three-month grace period to be eligible to enroll in health insurance. The Appellant testified credibly that they did attempt to purchase health insurance but was denied because they had missed the open enrollment period for 2019. See 45 CFR § 155.410 and 956 CMR 12.10(5). The Appellant verified substantial monthly living expenses and testified credibly that due to their fluctuating income they struggled to meet these expenses. Under these circumstances, the Appellant's five-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

Number of Months Appealed:   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 2019.

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-53

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 11, 2020

**Decision Date:** May 19, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 11, 2020.

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

- Exhibit 1: Notice of Hearing dated April 6, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal
- Exhibit 4: Written Statement of Appeal Dated February 27, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-four years old and is single. She lives in Suffolk County, Massachusetts. Appellant works in a cosmetics business.
2. Appellant had to help her mother who was in an abusive relationship. The abuser left and provided no economic assistance to her mother. Appellant's mother had five other children living at home with her. Appellant and her sister provided the economic assistance so that her mother could live in an apartment and feed and care for her other five children.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$4,365.00, consisting of rent \$1,350.00, heat and light \$200.00, cell phone \$150.00, wifi \$15.00, food \$250.00, car and car insurance \$1,100.00, car gas \$100.00, credit card \$400.00, clothing \$250.00, toiletries \$100.00, first and last month's rent and security deposit \$200.00,
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2019, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of domestic violence"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$54,868.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Suffolk County for a 23 year old single person was \$257.00. The tables reflect that Appellant could afford \$365.78. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” and “During 2019, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of domestic violence”

Appellant had to help her mother who was in an abusive relationship. The abuser left and provided no economic assistance to her mother. Appellant’s mother had five other children living at home with her. Appellant and her sister provided the economic assistance so that her mother could live in an apartment and feed and care for her other five children.

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

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

Appellant reported a federal AGI of \$54,868.00 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 \$365.78 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$265.78 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is less than she could afford. Appellant had to assist her mother who was abandoned with five children by domestic violent partner leaving Appellant and her sister to try and assist her mother with food and housing and other necessities. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_1  
2\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-55

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 11, 2020

**Decision Date:** May 19, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 11, 2020.

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

- Exhibit 1: Notice of Hearing dated April 6, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal
- Exhibit 4: Written Statement of Appeal Dated February 28, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-six years old and is single with one child. She lives in Bristol County, Massachusetts. Appellant works in a medical business.
2. Appellant cannot afford health insurance at this time. She is going to apply in November 2020 for health insurance. She has one daughter but does not take her daughter on her income tax because the father pays for her daughter's health insurance. Appellant has all the obligations and expenses related to having a child but does not have the relief that she would be entitled to if her daughter was a deduction, such as amount that she would have to afford to put her daughter on her health insurance.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,976.00, consisting of rent \$400.00, cell phone \$186.00, food \$600.00, car insurance \$50.00, car gas \$400.00, credit card \$160.00, clothing \$250.00, toiletries \$50.00, entertainment \$200.00, medical bills \$100.00, various child expenses \$700.00 braces \$120.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable" but should also have appealed under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of 31,261.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Bristol County for a 45 year old single person was \$350.00. The tables reflect that Appellant could afford \$130.25. 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 “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable” but should also have appealed under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under both grounds.

Appellant did not take her daughter on her tax return because her husband paid for her daughter’s health insurance. If Appellant had taken her daughter her cost for health insurance would have been substantially higher than it already is. Appellant had all the costs and obligations of raising her daughter but not the benefit

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

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

Appellant reported a federal AGI of \$31,261.00 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 \$130.25 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$350.00.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$130.25 for health insurance coverage because of her income. Private insurance in the market place was \$350.00 per month, which is more than she could afford. Appellant had to pay for all of her child’s expenses but did not get the benefit of her deduction. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_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.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-56

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 11, 2020

**Decision Date:** May 19, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 11, 2020.

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

- Exhibit 1: Notice of Hearing dated April 6, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal
- Exhibit 4: Written Statement of Appeal Dated February 22, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single with one child. She lives in Middlesex County, Massachusetts. Appellant works as a hairdresser.
2. Appellant's company offers a partial medical plan. This plan will pay some of the medical bills but the Appellant must pay the bills first and then try and obtain reimbursement. Appellant cannot afford health insurance at this time
3. Appellant does not have health insurance in 2020, other than through her company.
4. The Appellant's monthly expenses totaled \$2,043.00, consisting of rent \$1,175.00, heat & electricity \$30.00, internet & cable \$78.00, cell phone \$90.00, food \$300.00, toiletries \$100.00, entertainment \$200.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, you purchased health insurance that didn't meet minimum credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements" but should also have appealed under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of 40,013.00 was less than \$49,380.00. The monthly premium for health insurance available on the private market in Bristol County for a 37 year old single person with one dependent was \$728.00. The tables reflect that Appellant could afford \$206.73. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, you purchased health insurance that didn’t meet minimum credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements” but should also have appealed under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear her appeal under both grounds.

Appellant’s company offers a partial medical plan. This plan will pay some of the medical bills but the Appellant must pay the bills first and then try and obtain reimbursement. Appellant cannot afford health insurance at this time

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$24,690.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$40,013.00 in 2019, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$206.73 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets,

*supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$728.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$206.73 for health insurance coverage because of her income. Private insurance in the market place was \$728.00 per month, which is more than she could afford. Appellant had a medical plan wherein she would pay her medical expenses and get partially reimbursed for her medical expenses. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_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.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-58

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 11, 2020

**Decision Date:** May 25, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 11, 2020.

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

- Exhibit 1: Notice of Hearing dated April 6, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 26, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. She lives in Essex County, Massachusetts. Appellant works in a dental business.
2. Appellant was on her mother's health insurance but aged out of the policy and lost her health insurance. Appellant's work did not offer health insurance. Appellant contacted the Health Connector but was told open enrollment was closed.
3. Appellant does not have health insurance in 2020. Appellant has an application in with the Health Connector.
4. The Appellant's monthly expenses totaled \$2,619.00, consisting of rent \$850.00, heat and light \$250.00, cell phone \$150.00, internet and cable \$130.00, car insurance \$120.00, car gas \$80.00, food \$350.00, credit card \$300.00, entertainment \$200.00, toiletries \$50.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstances, such as Applying the Affordability Tables in Schedule HC to you is inequitable", Open enrollment closed- was covered under parent.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$51,573.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Essex County for a 26 year old single person was \$257.00. The tables reflect that Appellant could afford \$343.82. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “Other. During 2019 other circumstances, such as Applying the Affordability Tables in Schedule HC to you is inequitable”, Open enrollment closed- was covered under parent.

Appellant was on her mother’s health insurance but aged out of the policy and lost her health insurance. Appellant’s work did not offer health insurance. Appellant contacted the Health Connector but was told open enrollment was closed.

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

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

Appellant reported a federal AGI of \$51,573.00 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 \$343.82 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 257.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford 343.82 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is less than she could afford. Appellant aged out of her mother's health insurance. She contacted the Health Connector and was told that open enrollment had closed. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit  
Addendum

Appellant is urged to contact the Health Connector in regard to her open application for health insurance for 2020 in order to apply for and obtain health insurance for the year 2020.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-78

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 15, 2020

**Decision Date:** May 20, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on February 23, 2020, with attachments.
- Exhibit 4: Final Appeal Decision of the 2018 Tax Penalty dated December 6, 2019.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 60 years old in January 2019. The Appellant filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$35,044 (Exhibit 2 and Appellant Testimony).
4. The Appellant Spouse has not been assessed a tax penalty for tax year 2019 (Exhibit 2).
5. The Appellant but did not have health insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).

6. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3 and Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a married couple, with no dependents claimed, with an annual adjusted gross income of \$35,044 could afford to pay \$181 per month for health insurance. In accordance with Table 4, the Appellant, age 60, living in Worcester County, could have purchased private insurance for \$836 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$49,380 for a family of two in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that their Spouse has health problems and they did enroll in ConnectorCare coverage. The Appellant said that because of their low income and substantial living expenses, they could not afford to purchase insurance for themselves. The Appellant testified that their monthly after tax income is \$2,568.29 and their 2019 monthly living expenses included: mortgage-\$1,507; electricity-\$563; car insurance-\$218; cell phone-\$240; cable/internet-\$158; food-\$600; dog food-\$150 and their spouse's health insurance premium of \$87.00. The Appellant explained that due to prior arrearages they are on a payment plan with the electric company and therefore their monthly payment is high. The Appellant indicated that they spent \$400 on wood for their wood burning stove in 2019 and had car repairs totaling \$1,000 as well as an excise tax bill of \$85. The Appellant's credible testimony is supported by documentary evidence submitted with their appeal (Exhibit 3).
11. In tax year 2019 the Appellant was more than two months behind in their mortgage payment and did receive a utility shut off notice (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant filed their return as a married couple. The Appellant Spouse has not been assessed a tax-penalty for 2019. The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$35,044 could afford to pay \$181 per month for health insurance. According to Table 4, the Appellant, age 60, living in Worcester County, could have purchased a private insurance plan for \$836 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$49,380. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

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

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-80

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** May 15, 2020

**Decision Date:** May 20, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on February 26, 2020, with an attachment.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 27 years old in March 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$33,856 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$33,856 could afford to pay \$141 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Middlesex County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant.
8. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).
9. The Appellant had written in their letter of Appeal that their employer provided insurance, but the cost was too high (Exhibit 3).
10. At the Hearing, the Appellant initially testified that they believed that they did have health insurance in tax year 2019. The Appellant mentioned a Form 1095-C for 2019 which indicated a monthly cost of \$145.33 for January and \$184.30 for the period of February through December. The Appellant was advised that this form verifies that insurance was offered, but not that the Appellant had enrolled in the insurance and paid a premium. The cost of the employer sponsored insurance was more than the \$141 deemed affordable in accordance with Table 4 of Schedule HC for 2019. The Appellant was reminded that this testimony was inconsistent with what they wrote on their appeal request and that the Appellant would be asked to provide proof of insurance. The Appellant then said they did not have insurance. The Appellant testified that although they are 28 years old, they are still learning the basics of life such as things like insurance. I found the Appellant's statements to be inconsistent and therefore not credible (Exhibit 3 and Appellant Testimony).
11. The Appellant lived in a shared housing arrangement. The Appellant's 2019 monthly living expenses of \$1,430 included: rent and utilities-\$400; food-\$650; car insurance-\$203; gasoline-\$87 and telephone-\$90 (Appellant Testimony).
12. In tax year 2019 the Appellant did not face eviction, did not receive any utility shut off notices, did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster and did not incur significant expenses as a result of a family emergency (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$33,856 could afford to pay \$141 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Middlesex County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

At the hearing, the Appellant initially testified that they did have employer sponsored health insurance in tax year 2019. The Appellant said that they had a Form 1095-C as proof of insurance. The Appellant was advised that this form verifies that their employer offered health insurance, not that the Appellant enrolled in this insurance. The Form verified a monthly cost of \$145.33 for January and \$184.30 for the months of February through December. This was more than the \$141 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2019.

The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant's average monthly income was \$2,821. The Appellant lived in a shared housing arrangement and testified to monthly expenses of \$1,430. The Appellant was not facing eviction, did not receive any utility shut off notices and did not incur significant and unexpected expenses due to a family emergency, natural or other human caused disaster. The Appellant cites their immaturity as a reason for not enrolling in health insurance. As noted previously, the Appellant's statements were inconsistent and therefore not particularly credible. Given that the Appellant had access to a government sponsored health insurance program, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

**PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-82

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** May 15, 2020

**Decision Date:** May 20, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated April 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 2, 2020, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 48 years old in June 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$19,166 (Exhibit 2 and Appellant Testimony).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$19,166 could afford to pay \$46 per month for health insurance. In accordance with Table 4, the Appellant, age 48, living in Plymouth County, could have purchased private insurance for \$350 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they investigated purchasing health insurance through the Health Connector, but the monthly premium quoted was \$80 and the Appellant could not afford that. The Appellant said that they do not own the lot that their trailer is on and have to pay a mortgage as well as a lot fee (Appellant Testimony).
11. The Appellant's 2019 monthly expenses of \$1,848 included: mortgage-\$766; lot rental-\$542, utilities-\$80; telephone-\$100; car insurance-\$80; cable-\$100; home insurance-\$50 and gasoline-\$130. The Appellant testified that their father helps them by purchasing their groceries because the Appellant struggled to meet their monthly living expenses with their limited income. I found the Appellant to be credible.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$19,166 could afford to pay \$46 per month for health insurance. According to Table 4, the Appellant, age 48, living in Plymouth County, could have purchased a private insurance plan for \$350 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant verified substantial monthly living expenses and testified credibly that due to their limited income they struggled to meet these expenses. The Appellant said that they received financial assistance from a parent who purchased food for the Appellant because the Appellant could not afford to do so. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA17-848

**Appeal Decision** Appeal Approved.

**Hearing Issue:** Appeal of the 2017 Tax Year Penalty

**Hearing Date:** April 17, 2020

**Decision Date:** May 21, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 17, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-10-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (1-29-20) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 26 during 2017, from Hampden County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2017. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2017 was \$27,297.00 (Exhibit 2).
4. Appellant's employer did not provide health insurance. (Appellant testimony).
5. Appellant was homeless during 2017. (Appellant testimony).
6. Appellant now has health insurance through the Appellant's employer. (Appellant testimony).
7. Appellant's expenses for food, shelter, clothing, and other necessities used significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other

necessities, totaled approximately \$1,500.00 per month averaged out, or \$18,000.00 for the year (Appellant's Testimony, Exhibit 3). While Appellant may have qualified for ConnectorCare, Appellant was not aware of it. (Appellant Testimony).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. 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.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$150.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$95.00.
10. Private insurance was not affordable for the Appellant in 2017 (Schedule HC for 2017).
11. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore would likely have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2017).
12. Appellant claimed that they should be granted a waiver based on the grounds that they were homeless, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2017 (Exhibit 3).
14. Appellant was homeless in 2017. (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2017 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2017. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private

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

Private insurance was not affordable for the Appellant during 2017. According to Tables 3 and 4 of the HC Schedule for 2017, Appellant, with an adjusted gross income of \$27,297.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$95.00 per month; according to Table 4, Appellant, who was 26 years old in 2017, lived in Hampden County and filed the 2017 Massachusetts taxes as single with a family size of 1, would have had to pay \$150.00 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 were homeless, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant was homeless for all of 2017, and Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. Appellant has health insurance now through the employer. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2017 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

#### **PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

#### **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: PA19-110

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 26, 2020

**Decision Date:** May 28, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

- Exhibit 1: Notice of Hearing dated April 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 17, 2020
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Prior Decision

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-nine years old and is single. She lives in Hamden County, Massachusetts. Appellant works in a construction business.
2. Appellant states she cannot afford health insurance at this time. She has student loans and a private loan. Appellant's company does offer health insurance at a rate between \$200.00 and \$300.00 per month, which she states she cannot afford.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$4,538.270, consisting of heat & light \$150.00, 0, food \$250.00, car payment \$571.31car insurance \$149.68, car gas \$150.00, credit card \$1,050.00, clothing \$100.00, toiletries \$50.00, entertainment \$150.00, student loan \$911.25, private loan \$1,006.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$63,446.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Hamden County for a 29 year old single person was \$257.00. The tables reflect that Appellant could afford \$422.97. Private insurance is offered from her employer at a rate of \$200 to \$300.00. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant stated she could not afford health insurance because of her student loans.

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

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

Appellant reported a federal AGI of \$63,446.00 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 \$422.97 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$257.00.00 monthly for coverage. *Id.* at Table 4. Her employer offered health insurance at a rate of \$200.00-\$300.00 per month.

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

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

Appellant is deemed to afford \$422.97 for health insurance coverage because of her income. Private insurance in the market place was \$257.00 per month, which is less than she could afford. Her employer offered health insurance at a rate of \$200-\$300.00 per month. On these facts, I find that Appellant has not shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2019 penalty assessed is **UPHELD**.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-112

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 26, 2020

**Decision Date:** May 28, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

- Exhibit 1: Notice of Hearing dated April 21, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated February 25, 2020
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is forty-nine years old and is single. She lives in Norfolk County, Massachusetts. Appellant works for a town government.
2. Appellant states she moved from Texas in September 2018. Appellant did not get a job until February 2019 and was not offered health insurance until July 2019, which she could not afford. She saved up her money and obtained health insurance in May 2020.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$3,234, consisting of rent \$1,550.00, heat & light \$100.00, food \$120.00, cell phone \$52.00, water \$30.00, internet & cable \$87.00, car payment \$627.00, car insurance \$60.00, car gas \$75.00, credit card \$330.00, clothing \$20.00, toiletries \$20.00, entertainment \$50.00, furniture \$35.00, line of credit \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$39,685.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 48 year old single person was \$350.00. The tables reflect that Appellant could afford \$246.37. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant states she moved from Texas in September 2018. Appellant did not get a job until February 2019 and was not offered health insurance until July 2019, which she could not afford. She saved up her money and obtained health insurance in May 2020.

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

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

Appellant reported a federal AGI of \$39,685.00 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 \$246.37 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$350.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$246.37 for health insurance coverage because of her income. Private insurance in the market place was \$350.00 per month, which is less than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 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 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: PA19-113

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 26, 2020

**Decision Date:** May 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

Exhibit 1: Notice of Hearing dated April 21, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated February 29, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is fifty-eight years old and is single. She lives in Bristol County, Massachusetts. Appellant works for a manufacturing company.
2. Appellant states she cannot afford health insurance. Her company does not provide health insurance and the cost is too high.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$3,578.00, consisting of mortgage \$1,024, home insurance \$150.00, taxes \$300.00, heat & light \$300.00, food \$800.00, cell phone \$124.00, car insurance \$120.00, car gas \$80.00, credit card \$300.00, toiletries \$50.00, loan \$170.00, cable \$160.00
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$37,281.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Bristol County for a 57 year old single person was \$418.00. The tables reflect that Appellant could afford \$231.45. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant states she cannot afford health insurance. Her company does not provide health insurance and the cost is too high.

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

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

Appellant reported a federal AGI of \$37,281.00 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 \$231.45 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 418.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$231.45 for health insurance coverage because of her income. Private insurance in the market place was \$418.00 per month, which is more than she could afford. Appellants earnings comprise most of what she need to pay for essentials. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-114

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** May 26, 2020

**Decision Date:** May 28, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

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

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-three years old and is single. She lives in Hampshire County, Massachusetts. Appellant works for a health agency.
2. Appellant states she cannot afford health insurance. Her company does not provide health insurance and the cost is too high.
3. Appellant does not have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,069.00, consisting of rent \$450.00 heat & light \$247.00, food \$320.00, cell phone \$78.00 car payment \$212.00, car insurance \$91.00, car gas \$110.00, credit card \$211.00, clothing \$40.00, toiletries \$36.00, loan \$244.00
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$33,533.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Hampshire County for a 62 year old single person was \$375.00. The tables reflect that Appellant could afford \$139.72. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant states she cannot afford health insurance. Her company does not provide health insurance and the cost is too high.

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

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

Appellant reported a federal AGI of \$33,533.00 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 \$139.72 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$375.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$139.72 for health insurance coverage because of her income. Private insurance in the market place was \$375.00 per month, which is more than she could afford. Appellants earnings comprise most of what she need to pay for essentials. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-1132

**Appeal Decision** Appeal Denied.

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

**Hearing Date:** April 2, 2020

**Decision Date:** May 8, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 2, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-6-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-4-20) (with letter) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 60 during 2018, from Suffolk County, filed head of household on the tax return with a family size of 2) (Exhibit 2).
2. Appellant had health insurance through the employer for January through June of 2018, but did not have health insurance for the rest of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$147,073.00 (Exhibit 2).
4. Appellant was laid off from the employer as of July 1, 2018, and continued to receive pay for the job until November 2018. Appellant did not believe that the COBRA offered would be affordable, and did not contact the Health Connector until November 2018.
5. Appellant has health insurance as of January 1, 2020.

6. Appellant's expenses for food, shelter, clothing and other necessities did not use most of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing and other necessities, totaled \$3,873.00 per month averaged out, or \$46,476.00 for the year (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$846.00 for head of household coverage. According to Table 3, Appellant was deemed to afford \$1,041.00.
9. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellant testified that the premiums for COBRA through the employer were more than the Appellant believed were affordable, but Appellant did not explore health insurance through the Health Connector. (Appellant Testimony).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
13. Appellant did not fall more than thirty days behind in rent payments in 2018, nor did Appellant receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Private insurance was affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$147,073.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,041.00 per month; according to Table 4, Appellant, who was 60 years old in 2018, lived in Suffolk County and filed the 2018 Massachusetts taxes as head of household with a family size of 2, would have had to pay \$846.00 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 paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Expenses for food, shelter, clothing and other necessities did not use most of the income. Expenses for basic necessities used approximately \$46,476.00 for the year. For these reasons, the waiver of the penalty is denied.

#### **PENALTY ASSESSED**

Number of Months Appealed: 3      Number of Months Assessed: 3

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-1133

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 2, 2020

**Decision Date:** May 8, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 2, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-6-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-15-20) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 35 during 2018, from Essex County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant had health insurance through MassHealth for January through May of 2018, but did not have health insurance for the rest of 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$34,572.00 (Exhibit 2).
4. Appellant had been in in-patient substance abuse treatment at the beginning of 2018, and was homeless for the remainder of the year after Appellant was discharged from the treatment facility. Appellant's phone was shut off during part of 2018 as well. (Appellant testimony).
5. Appellant has health insurance currently through MassHealth. (Appellant testimony).

6. Appellant's expenses for food, shelter, clothing and other necessities used most of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing and other necessities, totaled \$2,241.00 per month averaged out, or \$26,892.00 for the year (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$290.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$144.00.
9. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore would have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellant testified that they had health insurance through MassHealth, but did not have a permanent address for the months when they did not have health insurance, and did not retain the MassHealth insurance. (Appellant Testimony).
11. Appellant claimed that they should be granted a waiver based on the grounds that they were homeless and that the telephone was shut off for part of the year. In addition, paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
13. Appellant was homeless in 2018, and Appellant did receive a shut-off notice for basic utilities (telephone). (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Private insurance was not affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$34,572.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$144.00 per month; according to Table 4, Appellant, who was 35 years old in 2018, lived in Essex County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$290.00 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 were homeless for part of 2018, that the telephone was shut off, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant was homeless for part of the year, and the telephone was shut off for part of the year. In addition, expenses for food, shelter, clothing and other necessities used most of the income. For these reasons, the waiver of the penalty is approved.

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

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA18-1134

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** April 2, 2020

**Decision Date:** May 8, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on April 2, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (3-6-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-17-20) (with letter and documents) (15 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 48 during 2018, from Norfolk County, filed single on the tax return with a family size of 1) (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$88,081.00 (Exhibit 2).
4. Appellant was divorced in 2017, and Appellant's ex-spouse was supposed to have provided paperwork to the ex-spouse's employer. Appellant did not learn until May 2018 that the health insurance had been terminated as of August 2017. (Appellant testimony, Exhibit 3). Appellant was told that it would cost approximately \$10,000.00 to make the health insurance retroactive to August 2017. (Exhibit 3).

5. Appellant had to withdraw money from Appellant's 401(k) to pay expenses and did not believe that the extra expense was affordable. Appellant contact Appellant's employer but was told that it was not possible to obtain health insurance through the employer until open enrollment the following May 2019. (Appellant testimony, Exhibit 3).
6. Appellant has health insurance currently through the employer. (Appellant testimony).
7. Appellant's expenses for food, shelter, clothing and other necessities used most of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, child support, and other necessities, totaled \$5,305.00 per month averaged out, or \$63.660.00 for the year (Appellant's Testimony, Exhibit 3).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
9. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$354.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$590.00.
10. Private insurance was affordable for the Appellant in 2018 (Schedule HC for 2018).
11. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellant testified that they believed they had health insurance through the ex-spouse's employer because they did not receive any notice it had been ended, but learned in May 2018 that it had been terminated the previous August 2017. (Appellant Testimony).
12. Appellant claimed that they should be granted a waiver based on the grounds of "other" in that they were unaware that the health insurance had ended, and when they learned it had been ended, could not afford to reinstate it and could not enroll in the Appellant's employer's insurance. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
14. Appellant did not fall more than thirty days behind in rent payments in 2018, nor did Appellant receive a shut-off notice for basic utilities in 2018 (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

Private insurance was affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$88,081.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$590.00 per month; according to Table 4, Appellant, who was 48 years old in 2018, lived in Norfolk County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$354.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were unaware until May 2018 that the insurance from the ex-spouse's employer had been terminated the previous August 2017, and the cost of reinstating it retroactive to August 2017 was not affordable, and that Appellant's employer stated that Appellant needed to wait until May 2019 to enroll in the insurance through Appellant's employer. In addition, Appellant claimed that paying for the reinstatement of the health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. For these reasons, the waiver of the penalty is approved.

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

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1135

**Appeal Decision** Appeal Approved

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

**Hearing Date:** March 24, 2020

**Decision Date:** May 25, 2020

## **AUTHORITY**

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

## **JURISDICTION**

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

## **HEARING RECORD**

The Appellants appeared at the hearing, which was held by telephone, on March 24, 2020 and the open record, which was allowed until May 7, 2020.

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

- Exhibit 1: Notice of Hearing dated February 7, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated JFebruary 12, 2020
- Exhibit 4: Written Statement of Appeal

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-six years old and his wife is fifty-three years old and they have two dependents. They live in Plymouth County, Massachusetts.
2. Appellant stated that he worked for the International Labor Office in Geneva, Switzerland for 18 years. Upon leaving that position he was able to retain their health insurance Appellant stated that though it did not meet Massachusetts standards it was in fact superior to the Massachusetts standards and was quite affordable. Appellant furnished an example fo payment by the plan, (Exhibit 4). The record was left open for the Appellant to provide some written documentation of the plan but none was provided. I found the Appellant to be credible
3. Appellant has the same health insurance in 2019 & 2020 .
4. The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, " Other. During 2018 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable" Appellant should also have appealed under "During 2018, you purchased health insurance that didn't meet minimum credible coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met the requirements." And " During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear their appeal under all grounds
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2018. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2018.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$74,942.00 was more than \$73,800.00. The monthly premium for health insurance available on the private market in Plymouthk County for a 65 year old married person with two dependents was \$1,003.00. The tables reflect that Appellants could afford \$474.63. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant did submit a Statement of Grounds for Appeal-2018 under the grounds for Appeal, “Other. During 2018 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” Appellant should also have appealed under “During 2018, you purchased health insurance that didn’t meet minimum credible coverage standards because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met the requirements.” and “During 2018, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear their appeal under all grounds

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2018, 150 percent of the FPL was \$37,650.00 for a married person with two dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant stated that he worked for the International Labor Office in Geneva, Switzerland for 18 years. Upon leaving that position he was able to retain their health insurance Appellant stated that though it did not meet Massachusetts standards it was in fact superior to the Massachusetts standards and was quite affordable. Appellant furnished an example of payment by the plan, (Exhibit 4). The record was left open for the Appellant to provide some written documentation of the plan but none was provided. I found the Appellant to be credible

Appellant reported a federal AGI of \$74,942.00 in 2018, and Appellant’s filing status was married. With two dependents EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2018 Massachusetts Schedule HC, Appellant could afford to pay \$474.62 monthly for health insurance. See 2018 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of \$1,,003.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$474.63 for health insurance coverage because of their income. Private insurance in the market place was \$1,003.000 per month, which is more than they could afford. Appellant had health insurance through his former employer that he felt was better than Massachusetts health insurance at a lower cost. On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed:   24   Number of Months Assessed:   0  

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit