

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA16-803

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** March 2, 2021

**Decision Date:** May 3, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on March 2, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2016 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (11-20-20) (with letter and documents) (7 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 60 during 2016, from Middlesex County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for January through March, 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 \$55,425.00 (Exhibit 2).
4. Appellant was laid off from a job in March of 2016. (Appellant testimony).
5. Appellant had filed for bankruptcy in 2014 and was incurring payments for that as well as trying to maintain her home in New Hampshire. (Appellant testimony, Exhibit 3).
6. Appellant now has health insurance through an employer. (Appellant testimony).

7. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities for Appellant, totaled approximately \$5,858.00 per month averaged out, or \$70,260.00 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 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 afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$323.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$375.00.
10. Private insurance was affordable for the Appellant in 2016 (Schedule HC for 2016).
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 2016).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2016 (Exhibit 3).
14. Appellant was not homeless in 2016, was not more than 30 days in arrears in rent or mortgage, and did not receive an eviction or foreclosure notice. (Appellant Testimony, Exhibit 3). However, Appellant was behind on property tax payments.

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

Private insurance was affordable for the Appellant during 2016. According to Tables 3 and 4 of the HC Schedule for 2016, Appellant, with an adjusted gross income of \$55,425.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$375.00 per month; according to Table 4, Appellant, who was 60 years old in 2016, lived in Middlesex County and filed the 2016 Massachusetts taxes as single with a family size of 1, would have had to pay \$323.00 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. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. Appellant has health insurance now through an 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: 6      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA16-804

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** March 2, 2021

**Decision Date:** May 3, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on March 2, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2016 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (11-16-20) (with letter and documents) (8 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 36 during 2016, from Middlesex County, filed married filing separately on the tax return with a family size of 2 (Exhibit 2).
2. Appellant did have health insurance for October through December, 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 \$27,685.00 (Exhibit 2).
4. Appellant was working as a real estate agent from January until October and did not have access to employer health insurance during those months. Appellant had to borrow from a 401(k) in order to meet expenses. (Appellant testimony, Exhibit 3).

5. Appellant obtained a full-time job in October 2016 and had health insurance through the employer for the rest of 2016. (Appellant testimony, Exhibit 3).
6. Appellant now has health insurance through an employer. (Appellant testimony).
7. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities for Appellant, totaled approximately \$3,077.00 per month averaged out, or \$36,924.00 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 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 \$221.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$96.00.
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 may have qualified for subsidized health insurance through the Health Connector, except that the filing status as married filing separately could have prevented it. (Schedule HC for 2016).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2016 (Exhibit 3).
14. Appellant was not homeless in 2016, was not more than 30 days in arrears in rent or mortgage, and did not receive an eviction or foreclosure notice. (Appellant Testimony, Exhibit 3). However, Appellant was behind on property tax payments.

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

Private insurance was 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 \$27,685.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$96.00 per month; according to Table 4, Appellant, who was 36 years old in 2016, lived in Middlesex County and filed the 2016 Massachusetts taxes as married filing separately with a family size of 2, would have had to pay \$221.00 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. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income. Appellant has health insurance now through an 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: 6      Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA19-861

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** April 29, 2021

**Decision Date:** May 24, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD<sup>1</sup>**

The Appellants' Authorized Representative, their accountant, appeared at the hearing, which was held by telephone on April 29, 2021. The Appellant listed as the Primary Taxpayer (Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2019 also appeared at the hearing by telephone for a brief period of time. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did not appear at the hearing.

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

1	Appeal Case Info. fr. Sch. HC for 2019, 10/14/20	1
2	Statement of Grounds for Appeal	3
3.	Representative Form 19-861, 11/23/20	1
4.	Tax Penalty Decisions for 2013, 2014, 2015 and 2018	14

---

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



**FINDINGS OF FACT**

The record shows, and I so find:

1. The Primary Taxpayer turned 55 years old in December 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with two (2) dependents claimed. (Exhibit 1).
2. The Appellant Spouse turned 53 years old in May 2019. (Exhibit 1).
3. The Primary Taxpayer lived in Barnstable County, MA during 2019. (Exhibit 1).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$766,959.00. (Exhibit 1).
5. According to Appeal Information from Schedule HC for 2019, the Primary Taxpayer did have minimum creditable coverage (MCC) during 2019 and was not uninsured all year. However, the table showing months insured from the Schedule HC indicates that the Primary Taxpayer did not have health insurance coverage for any months during 2019. The Primary Taxpayer testified that in fact they did have MCC-compliant coverage during each month of 2019. (Primary Taxpayer's Testimony, which I find credible). The Primary Taxpayer was assessed a tax penalty of zero months. (Exhibit 1).
6. According to Appeal Information from Schedule HC for 2019, the Appellant Spouse did not have health insurance coverage during any months of tax year 2019 and was assessed a tax penalty of twelve (12) months. (Exhibit 1).
7. A third-party tax preparer completed the Primary Taxpayer's taxes for tax year 2019. (Primary Taxpayer's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two (2) dependents claimed, with an annual adjusted gross income of \$766,959.00, could afford to pay \$5,113.06 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 55, living in Barnstable County, could have purchased private market health insurance for \$992.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Primary Taxpayer in 2019.

10. The Primary Taxpayer was self-employed and purchased MCC-compliant insurance through the private market in 2019. (Primary Taxpayer's)
11. The Appellant Spouse and their two dependent children lived in a Middle Eastern country during 2019, where the children attended school. They each had health insurance coverage in the country in which they resided during 2019. They visited the Primary Taxpayer in Barnstable County for about 4 weeks during 2019. (Testimony of Primary Taxpayer and Authorized Representative).
12. The Appellant Spouse has lived in Massachusetts since 2020 and has the same MCC-compliant insurance coverage as the Primary Taxpayer has.

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

According to Appeal Information from Schedule HC for 2019 the Primary Taxpayer did not have health insurance coverage for any months during 2019 and was assessed a tax penalty of zero months. (Exhibit 1). The Primary Taxpayer testified that in fact they had private health insurance coverage during each month of 2019. (Primary Taxpayer’s Testimony). A third-party tax-preparer completed the Primary Taxpayer’s 2019 taxes. (Primary Taxpayer’s Testimony). Based on this evidence, I conclude that the Primary Taxpayer did have health insurance coverage during 2019 and that they were correctly assessed zero penalty months.

Appellant Spouse was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2019. (Exhibit 1). They appeal that tax penalty assessment on the ground “other” - - namely, they resided outside Massachusetts during 2019. (Exhibits 1 and 4).

The Primary Taxpayer and their Accountant testified credibly that Appellant Spouse lived in a Middle Eastern country with two of their children for the entirety of 2019, except a four-week vacation to visit the Primary Taxpayer in Barnstable County. They also testified that the Appellant Spouse had been assessed a tax penalty for being uninsured for prior tax years, and the penalty was overturned on the ground that they did not reside in Massachusetts during the years in question. (Primary Taxpayer’s and Accountant’s Testimony and Exhibit 4).

Based on the totality of the evidence, I conclude that since the Appellant Spouse was not a resident of Massachusetts during 2019, their appeal should be granted and the twelve-month penalty assessment should be waived in full. G.L c. 111M, § 2.

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

**PENALTY ASSESSED**

Appellant Primary Taxpayer:

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

Appellant Spouse:

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-898

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** April 29, 2021

**Decision Date:** May 24, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD<sup>1</sup>**

The Appellant appeared at the hearing, which was held by telephone, on April 29, 2021.

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

- Exhibit 1      Appeal Case Info. fr. Sch. HC for 2019, 10/20/20 (1 page)
- Exhibit 2      Statement of Grounds for Appeal (3 pages)
- Exhibit 3      PA19-898 Attendance Sheet, 11.20.20 (1 page)
- Exhibit 4      Notice of Appeal Hearing, April 5, 2021 (2 pages)

---

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

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 28 years old in September 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 1).
2. The Appellant lived in Essex County, MA in 2019. (Exhibit 1 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$102,597.00. (Exhibit 1).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 1).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019, which they have appealed. (Exhibits 1 and 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$102,597.00, could afford to pay \$683.98 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Essex County, could have purchased private market health insurance for \$258.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellant in 2019.
8. The Appellant was self-employed during 2019. Thus, employer-sponsored insurance was not available to the Appellant. (Appellant's Testimony).
9. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$102,597.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2).
10. The Appellant was a self-employed small business owner during 2019. They looked into obtaining health insurance through their company and discovered that if one employee purchased health insurance through the company, the rate would be much less expensive. The owner offered an incentive to an employee to purchase health

insurance through the company but in the end, the employee declined the offer and purchased health insurance elsewhere. (Appellant’s Testimony, which I find credible).

11. At that point, the Appellant contacted the Health Insurance Connector to purchase insurance for themselves individually only to learn that they had missed the open enrollment period by a week. (Appellant’s Testimony, which I find credible). They then contacted several private health insurance carriers and learned that they had missed the open enrollment period for those companies as well. (Appellant’s Testimony).
12. The Appellant’s monthly living expenses during tax year 2019 totaled \$3,077.00.
13. The Covid-19 pandemic placed and continues to place an economic strain on the Appellant’s business, which is providing non-emergency transportation to medical appointments. (Appellant’s Testimony).
14. The Appellant enrolled in health insurance through the Connector as soon as the next open enrollment period began for 2020. (Appellant’s Testimony).
15. The Appellant currently has health insurance coverage through the Health Connector. (Appellant’s Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the “individual mandate”, requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant checked the “Other” reasons box as the basis for their appeal. (Appellant’s Testimony and Exhibit 2). They explained that after exploring an option to purchase health insurance through their self-owned company, which did not work out, they discovered that they had missed the open enrollment period for Health Connector insurance and did not understand that private companies adhered to an open enrollment period as well, which they had missed. (Appellants Testimony).

To determine if the twelve (12)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage

standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If 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.

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$102,597.00, could afford to pay \$683.98 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Essex County, could have purchased private market health insurance for \$258.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellant in 2019.

The Appellant was self-employed during 2019. Thus, employer-sponsored insurance was not available to the Appellant. (Appellant's Testimony).

The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$102,597.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2).

The Appellant was a self-employed small business owner during 2019. They looked into obtaining health insurance through their company and discovered that if one employee purchased health insurance through the company, the rate would be much less expensive. The owner offered an incentive to an employee to purchase health insurance through the company but in the end, the employee declined the offer and purchased health insurance elsewhere. (Appellant's Testimony, which I find credible).

At that point, the Appellant contacted the Health Insurance Connector to purchase insurance for themselves individually only to learn that they had missed the open enrollment period by a week. (Appellant's Testimony, which I find credible). They then contacted several private health insurance carriers and learned that they had missed the open enrollment period for those companies as well. (Appellant's Testimony). The Appellant's business experienced during 2019 and continues to experience today financial strain because of the pandemic. (Appellant's Testimony).

Based on all the evidence contained in this administrative record and the totality of the circumstances, I find that although the cost of health insurance coverage through the private market would have been affordable to the Appellant during 2019, they missed the open enrollment period to purchase that insurance after trying unsuccessfully to create a situation within their own business through which they and an employee could purchase insurance through the company. Thereafter, the Appellant contacted both the Health Insurance Connector

and several private market companies in an unsuccessful effort to purchase individual insurance only to discover they had missed the open enrollment period. (Appellant's Testimony, which I credit). Further, Appellant's business experienced economic strains during the pandemic. (Appellant's Testimony). The Appellant enrolled in MCC-compliant health insurance through the Connector at the soonest possible time during the next open enrollment period. They remain enrolled in a health insurance company currently. (appellant's Testimony, which I find credible).

For all these reasons, I conclude that the Appellant has demonstrated a hardship under 956 CMR 6.08 (3). Accordingly, payment for the twelve (12) month penalty assessment is waived.

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

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

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

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: PA19-965

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** April 29, 2021

**Decision Date:** May 24, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD<sup>1</sup>**

The Appellant appeared at the hearing, which was held by telephone, on April 29, 2021.

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

1	Appeal Case Info. fr. Sch. HC for 2019, 11/09/20	1 page
2	Statement of Grounds for Appeal with documents	5 pages
3.	Notice of Appeal Hearing, April 5, 2021	2 pages
4	First Notice of Appeal Hearing, Nov. 9, 2020	2 pages

---

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

## FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 30 years old in September 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 1).
2. The Appellant lived in Hampden County, MA in 2019. (Exhibit 1 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$20,695.00. (Exhibit 1).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during nine (9) months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 1).
5. The Appellant has been assessed a six (6)-month tax penalty for 2019, which they have appealed. (Exhibits 1 and 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,695.00, could afford to pay \$50.01 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30, living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.
8. The Appellant was employed as a substitute teacher from January through September 2019. During those months, their employer did not offer them health insurance. (Appellant's Testimony).
9. Beginning at the end of September 2019, the Appellant became employed as a full-time teaching assistant for a charter school, which offered health insurance in which the Appellant enrolled. (Appellant's Testimony). Thus, they had MCC-compliant health insurance from October through December 2019.

10. The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$20,695.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2).
11. During the months Appellant was employed as a substitute teacher, their monthly wages varied greatly as their work hours were unpredictable. (Appellant's Testimony and Exhibit 2). As a result, they struggled to meet their monthly living expenses, were more than 30 days in arrears in rent and received disconnect notices from Columbia Gas. (Appellant's Testimony and Exhibit 2).
12. The Appellant contacted both the Health Connector and MassHealth on several occasions throughout 2019 to explore their potential eligibility for health care coverage. However, they experienced long telephone delays and received confusing and conflicting information both by mail and on the telephone. Consequently, they were not able to enroll in health insurance before October 2019, when they became employed full time. (Appellant's Testimony, which I credit.)
13. The Appellant's monthly living expenses of \$1,445.00 during tax year 2019 included: Rent - \$520.00, Heat - \$40.00, Electricity - \$30.00, Car insurance - \$200.00, Car loan - \$100.00, Gas - \$35.00, Telephone - \$70.00, Food - \$200.00, Credit card debt - \$250.00. (Appellant's Testimony).
14. The Covid-19 pandemic placed and continues to place an economic strain on the Appellant as summer programs in which they usually were employed were cancelled. (Appellant's Testimony and Exhibit 2).
15. The Appellant currently receives health insurance through their employer. (Appellant's Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

On the Statement of Grounds for Appeal Form, the Appellant checked that they were more than 30 days in arrears in rent and received utility shut off notices. Appellant's Testimony and Exhibit 2).

As an initial matter, I note that after correctly applying the three-month grace period to the nine (9) months the Appellant was uninsured, Appellant was correctly assessed a six (6)-month penalty.

To determine if the six (6)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If 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.

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,695.00, could afford to pay \$50.01 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30, living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.

The Appellant was employed as a substitute teacher from January through September 2019. During those months, their employer did not offer them health insurance. (Appellant's Testimony). Beginning at the end of September 2019, the Appellant became employed as a full-time teaching assistant for a charter school, which offered health insurance in which the Appellant enrolled. (Appellant's Testimony). Thus, they had MCC-compliant health insurance from October through December 2019.

The Appellant was income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$20,695.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2).

During the months Appellant was employed as a substitute teacher, their monthly wages varied greatly as their work hours were unpredictable. (Appellant's Testimony and Exhibit 2). As a result, they struggled to meet their monthly living expenses, were more than 30 days in arrears in rent and received disconnect notices from Columbia Gas. (Appellant's Testimony and Exhibit 2).

The Appellant contacted both the Health Connector and MassHealth on several occasions throughout 2019 to explore their potential eligibility for health care coverage. However, they experienced long telephone delays and received confusing and conflicting information both by mail and on the telephone. Consequently, they were not able to enroll in health insurance before October 2019, when they became employed full time. (Appellant's Testimony, which I credit.)

The Covid-19 pandemic placed and continues to place an economic strain on the Appellant as summer programs they usually worked in were cancelled. (Appellant's Testimony and Exhibit 2).

The Appellant's monthly living expenses of \$1,445.00 during tax year 2019 included: Rent - \$520.00, Heat - \$40.00, Electricity - \$30.00, Car insurance - \$200.00, Car loan - \$100.00, Gas - \$35.00, Telephone - \$70.00, Food - \$200.00, Credit card debt - \$250.00. (Appellant's Testimony).

Based on the evidence contained in the administrative record and the totality of the circumstances, including the Appellant's rent arrearages and utility shut off notices, the ongoing financial strains of the pandemic and their unpredictable hours and earnings during the first nine months of 2019, I conclude that Appellant has established hardship within the meaning of 956 CMR 6.08 (1) & (3). Accordingly, payment for the six (6)-month penalty assessment is waived.

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

**PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2011.

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

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

Hearing Officer

Cc: Connector Appeals Unit



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-117

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

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 19, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 19, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Statement of Grounds (6 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Appellant was 59 years old at the end of 2020.
2. During 2020, Appellant lived in Essex County. He is a citizen of the United States.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$25,899. See Exhibit 2.

---

<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.



5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. At the start of 2020, Appellant was working at a part-time job that did not offer him health insurance. He was laid off in March because of the Covid-19 pandemic. He then began receiving unemployment compensation, which he continued to receive throughout 2020.
7. Appellant could not recall the last time that he had health insurance.
8. Appellant believed that he had once applied for subsidized health insurance through the Health Connector a number of years ago but was denied. He never applied again.
9. Appellant was not insured at the time of the hearing.
10. Appellant had fixed expenses throughout 2020 that amounted to about \$2,000 a month. These included rent, utilities and other necessities.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having purchased creditable coverage in 2020, I must first consider whether Appellant could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2020, Appellant either worked at a part-time job that did not offer him health insurance as a benefit or was unemployed. Therefore, he did not have access to employer sponsored insurance.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one person and made \$25,899 a year was deemed able to afford 4.2 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant’s case, that amounts to \$1,087 or \$90.64 a month. During 2020, a person like Appellant who was 59 and lived in Essex County would have had to pay a premium of at least \$432 for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have not been affordable for Appellant.

However, Appellant would have qualified for government-subsidized insurance during 2020. His annual income in 2020 of \$25,899 was below \$37,470, which is 300 percent of the federal poverty limit for a household like Appellant's with one person. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes under 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet other eligibility requirements, which are that they are citizens or legal permanent residents of the United States, and they do not have access to affordable employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) Appellant met those other eligibility requirements. Because premiums for Connector Care are scaled to a person's household income, they are affordable.

Because I have concluded that Appellant could have obtained affordable health insurance in 2020, but didn't, I must determine whether he has stated grounds to waive the individual mandate penalty. See 956 CMR 6.08(1). I conclude that he has. Appellant was unemployed during most of 2020. He had fixed expenses of approximately \$2,000 a month. His income of \$25,899 would barely have covered those expenses. Thus, he has established that he had financial circumstances such that the purchase of health insurance would have caused him to experience a serious deprivation of the necessities of life. This constitutes a basis for waiving the penalty. 956 CMR 6.08(1)(e).

That conclusion does not mean that Appellant is excused from obtaining health insurance forever. Appellant can apply for Connector Care, which is offered through the Health Connector. Connector Care is subsidized by the federal and state governments, and the premium is scaled to the covered person's household income. Thus, Connector Care will provide Appellant with comprehensive, affordable insurance. Appellant can apply for Connector Care on-line at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by calling the Health Connector's customer service line at 877-623-6765. If Appellant continues to go without health insurance when he could obtain affordable health insurance through the Health Connector, he will be subject to the penalty in future years.

Based on the foregoing, I will allow the appeal and waive the penalty assessed against Appellant for 2020.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-118

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

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 19, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants were a married couple, who will be referred to herein as Husband and Wife. Only Wife appeared at the hearing, which was held by telephone, on May 19, 2021. The hearing record consists of the testimony of Wife, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Statement of Grounds with attachments (6 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Wife and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Husband was 33 and Wife was 27 at the end of 2020.
2. During 2020, Appellants lived in Berkshire County.
3. Appellants filed their 2020 Massachusetts taxes as married, filing jointly, with one dependent.
4. Husband had two children from a prior relationship. Under his agreement with the children's mother, he was able to take one of them as a dependent. Wife had one child from a prior relationship, but she did not take that child as a dependent on her taxes in 2020, due to her agreement with the child's father.

---

<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellants submitted as part of their 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellants reported on their Massachusetts tax return and Wife confirmed at the hearing that they had adjusted gross income in 2020 of \$72,327. See Exhibit 2.
6. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that Wife had health insurance meeting minimum creditable (MCC) standards from January through June of 2020, but did not have health insurance for the remaining six months of the year. Husband did not have health insurance at any point in 2020. Exhibit 2.
7. At the start of 2020, Wife was working at a job that offered her health insurance. During the part of the year that she was employed, she was insured through her job. However, she was laid off in June as a result of the Covid-19 pandemic and consequently lost health insurance.
8. Husband was employed at a job that did not offer him health insurance. He was laid off from that job in February as a result of the Covid-19 pandemic.
9. All of the couple's three children were insured during 2020.
10. Neither Appellant had insurance at the time of the hearing.
11. As of the date of the hearing, Husband had begun working at a new position that did not offer him health insurance. Wife hoped to be returning to work soon.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Wife's case, she reported on her Schedule HC that she was without insurance for six months in 2020. Because she was entitled to a three-month gap without penalty, she has been assessed a penalty for only three months.

In order to determine whether Appellants should be penalized for not having purchased creditable coverage in 2020, I must first consider whether they could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the first half of 2020, Wife worked at a job that offered her health insurance and she was enrolled. After that she was unemployed, and thus could not obtain employer sponsored insurance. Husband either worked at a job that did not offer him health insurance as a benefit or was unemployed.

Therefore, neither Appellant had access to employer sponsored insurance during the time that they were uninsured in 2020.

Appellants would not have qualified for government-subsidized insurance during 2020. Their annual income in 2020 of \$72,327 was above \$63,990, which is 300 percent of the federal poverty limit for a household of three persons like Appellants'. (I obtain the figure of \$63,990 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellants could not have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, persons like Appellants who lived in a household of three person and made \$72,327 a year were deemed able to afford 7.45 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellants' case, that amounts to \$5,388 or \$449 a month. During 2020, persons like Appellants who lived in Berkshire County and were in a household in which the oldest person was 33 years old would have had to pay a premium of at least \$660 for health insurance for a family or \$516 a month for insurance for a couple. (I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have not been affordable for Appellants.

Because I have concluded that Appellants could not have obtained affordable health insurance in 2020, I am not required to determine whether they have stated grounds to waive the individual mandate penalty. See 956 CMR 6.08(1). Rather, I am allowing the appeal and waiving the penalty assessed against Appellants for 2020 in its entirety.

**PENALTY ASSESSED**

Wife:

Number of Months Appealed: 3

Number of Months Assessed: 0

Husband:

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-119

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

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 19, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 19, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)
- Exhibit 3: Statement of Grounds with termination notice from National Grid (6 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Appellant was 62 at the end of 2020.
2. During 2020, Appellant lived in Norfolk County. She is a citizen of the United States.
3. Appellant filed her 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2020 of \$27,944. See Exhibit 2.
5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes that she did not have health insurance at any point in 2020. Exhibit 2.

---

<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.



6. At the start of 2020, Appellant worked at a part-time job that did not offer her health insurance as a benefit. In March, she was laid off because of the Covid-19 pandemic and at that point, she began collecting unemployment compensation.
7. Appellant believed that at some point in the past she had received government-subsidized insurance, but she lost it. She did not know the circumstances of how she lost it.
8. Appellant experienced financial difficulties in 2020 because of her loss of income. She was unable to pay the bill for her electricity, which was also the source of heat for her residence. Appellant received a termination notice from the electric utility in March. See Exhibit 3.
9. Appellant was uninsured at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having purchased creditable coverage in 2020, I must first consider whether she could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2020, Appellant either worked at a part-time job that did not offer her health insurance as a benefit or was unemployed. Therefore, she did not have access to employer sponsored insurance during 2020.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one and made \$27,944 a year was deemed able to afford 4.2 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant’s case, that amounts to \$1,173 or \$97.80 a month. During 2020, a person like Appellant who lived in Norfolk County and was 62 would have had to pay a premium of at least \$432 for health insurance. (I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have not been affordable for Appellant.

However, Appellant would have qualified for government-subsidized insurance during 2020. Her annual income in 2020 of \$27,994 was below \$37,470, which is 300 percent of the federal poverty limit for a

household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet the other eligibility criteria of citizenship or permanent legal residence in the United States and lack of access to affordable employer-sponsored insurance. 956 CMR 12.04 (Connector Care eligibility requirements.) Appellant met those other criteria. Because Connector Care premiums are scaled to a person's income, they are affordable.

Because I have concluded that Appellant could have obtained affordable health insurance in 2020, but didn't, I am required to determine whether she has stated grounds to waive the individual mandate penalty. See 956 CMR 6.08(1). In this case, I conclude that she has. Appellant produced evidence that she received a termination notice for electricity, which is an essential utility. This constitutes grounds to waive the penalty under 956 CMR 6.08(1)(b).

That said, I note that, based on the information provided at the hearing, it appears likely that Appellant would qualify for Connector Care. Premiums are scaled to the individual's household income. Thus, Connector Care provides comprehensive, affordable health insurance to eligible individuals. Appellant is advised to apply for Connector Care either on-line at [www.mahealthconnector.org](http://www.mahealthconnector.org) or by calling the Health Connector's customer service number at 877-623-6765. If Appellant remains uninsured when affordable insurance is available to her, she could be subject to the individual mandate penalty in future years.

Based on the foregoing, I am allowing the appeal and waiving the penalty assessed against Appellant for 2020 in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-120

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

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 19, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 19, 2021. He was accompanied by his mother, referred to herein as Mother, who also testified. The hearing record consists of the testimony of Appellant and Mother, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Statement of Grounds with 1095-Cs from two employers attached (8 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and Mother and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Appellant was 20 at the end of 2020.
2. During 2020, Appellant lived in Essex County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$45,731. See Exhibit 2.

---

<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he had health insurance from January through June, but did not have health insurance for the remaining six months of 2020. Exhibit 2.
6. At the start of 2020, Appellant worked at a job that offered him health insurance and he was enrolled during that period of time.
7. In the middle of the year, he switched to a new job with a different employer. Upon being hired, he completed and submitted the paperwork to obtain health insurance through that employer.
8. Due to a processing error at the employer's human relations department, that paperwork was never submitted. As a result, Appellant was not enrolled in health insurance for the latter half of 2020.
9. Appellant did not realize that he was not enrolled in health insurance because he had no need for medical care during that time period.
10. Appellant did not realize that there was a problem with his health insurance coverage until he was required to file his 2020 taxes in early 2021. Appellant was able to correct the error on a going-forward basis and as a result, he was enrolled in health insurance in 2021 and was insured at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he reported on his Schedule HC that he was without insurance for six months in 2020. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only three months.

In order to determine whether Appellant should be penalized for not having purchased creditable coverage in 2020, I must first consider whether he could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the first part of 2020, Appellant obtained health insurance through employment. However, in the second half of the year, he was not eligible for employer-sponsored insurance but was not enrolled.

Appellant testified credibly that he had applied for health insurance with his new employer, but the application was never processed due to an error by his new employer's human resources department. Because of this error, Appellant could not obtain insurance through employment during the latter half of 2020.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. His annual income in 2020 of \$45,731 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who was in a tax household of one and made \$45,731 a year was deemed able to afford 7.6 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$3,475 or \$289 a month. During 2020, a person like Appellant who lived in Essex County and was 20 could have obtained health insurance for a monthly premium of \$269.(I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because I have concluded that Appellant could have obtained affordable health insurance in 2020, but didn't, I am required to determine whether he has stated grounds to waive the individual mandate penalty. See 956 CMR 6.08(1). In this case, I conclude that he has. The only reason Appellant did not have health insurance in the last half of 2020 is because of an error by his employer's human resources department. Appellant should not be penalized for someone else's error. Appellant had enrolled in health insurance during the first half of the year, and he applied for health insurance when he started his new job. He should not be held responsible for not purchasing unsubsidized health insurance during the last half of the year because he was under the mistaken impression that he was covered. This was a reasonable assumption given the fact that he had applied for that benefit. Further, I take into account the fact that Appellant was insured as of the date of the hearing in 2021. Accordingly, I will exercise my discretion to allow the appeal and waive the penalty in its entirety.

#### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 20-122

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

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 19, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 19, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet<sup>1</sup> (1 page)

Exhibit 3: Statement of Grounds with attachments (7 pages)

### **FINDINGS OF FACT**

The findings of fact are based on the testimony of Appellant and, if specifically noted, exhibits, and the reasonable inferences drawn therefrom. The record shows, and I so find:

1. Appellant was 37 at the end of 2020.
2. During 2020, Appellant lived in Worcester County.
3. Appellant filed her 2020 Massachusetts taxes as single with two dependents. Her dependents were her fiancé and his child, both of whom lived with her and depended on her for financial support.
4. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2020 of \$76,137. See Exhibit 2.

---

<sup>1</sup> Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2020 state income taxes that she did not have health insurance at any point in 2020. Exhibit 2.
6. At the start of 2020, Appellant worked at a job that did not offer her health insurance. However, because of the Covid-19 pandemic, which closed the business where she worked, she was laid off from that job for several months and then was able to return to only reduced hours.
7. During 2020, Appellant's fiancé was out of work as well. The fiancé and his child were both covered through MassHealth, which is the state's Medicaid program, which they were eligible for because they did not have income.
8. Appellant experienced difficult financial circumstances during the year and had trouble meeting her necessary expenses, which included mortgage, utilities, car payments, and food. As a result, she incurred significant credit card debt.
9. At one point, Appellant had to seek forbearance from the financial institution that held the mortgage on her residence, because she was unable to make monthly payments. Exhibit 3. She also had to seek forbearance on student loans because she was unable to make monthly payments.
10. Appellant remained uninsured at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In order to determine whether Appellant should be penalized for not having purchased creditable coverage in 2020, I must first consider whether she could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2020, Appellant either worked for a position that did not offer her health insurance or was unemployed. As a result, she was not able to obtain employer sponsored insurance.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. Her annual income in 2020 of \$76,137 was above \$63,990, which is 300 percent of the federal poverty limit for a household of three persons like Appellant's. (I obtain the figure of \$63,990 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)



However, Appellant could have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who was in a tax household of three and made \$76,137 a year was deemed able to afford 7.6 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$5,786 or \$482 a month. During 2020, a person like Appellant who lived in Worcester County and was 37 could have obtained health insurance for herself for a monthly premium of \$269. (I obtain the premium figures from Table 4 to the instructions for the 2020 Schedule HC). I consider only the cost of an individual plan because Appellant was not legally obligated or able to obtain family coverage for her fiancé and his child, and because the fiancé and child were covered through MassHealth. Thus, under state standards, unsubsidized insurance would have been affordable for Appellant.

Because I have concluded that Appellant could have obtained affordable health insurance in 2020, but didn't, I am required to determine whether she has stated grounds to waive the individual mandate penalty. See 956 CMR 6.08(1). In this case, I conclude that she has. Appellant testified credibly that she had significant financial strains supporting a household of three persons with only one income. The situation was aggravated by the fact that her work hours were uncertain and variable throughout the year due to the pandemic. As a result of her financial difficulties, Appellant was required to seek forbearance on her mortgage because she could not make payments. This meant that interest continued to accumulate on the mortgage, but she did not make payments. Being more than 30 days in arrears on mortgage payments constitutes grounds for waiving the penalty. See 956 CMR 6.08(1)(a). Thus, I conclude that the penalty should be waived in this case.

Based on the foregoing, I am allowing the appeal and waiving the penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-90

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** March 2, 2021

**Decision Date:** May 3, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants appeared at the hearing, which was held by telephone, on March 2, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notices of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-2-20) (3 pages);
- Exhibit 4: Letter requesting to vacate dismissal (6-3-20) (1 page);
- Exhibit 5: Final Appeal Decision TY2013 (6-19-14) (4 pages); and
- Exhibit 6: Notice of prior hearing date (4-17-20) (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 34 and 35 during 2019, from Middlesex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. One of Appellants had health insurance for all of 2019, and the other Appellant did have health insurance for June through December of 2019, but did not have health insurance through the other months of 2019. (Appellant's testimony, Exhibits 2, 4).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$104,447.00 (Exhibit 2).

4. One of changed jobs at beginning of 2019 and lost employer-sponsored insurance. At some point during 2019, Appellants were married and the Appellant who did not have health insurance obtained health insurance through the other Appellant's employer. The Appellant who did not have insurance from January through May also earned only \$14,000.00 during those months when they did not have health insurance. The other Appellant had health insurance through the employer for the entire year. (Appellant's testimony, Exhibit 3).
5. Appellant's expenses for food, shelter, clothing, transportation, child expenses and other necessities, used most of the available income during the time the Appellant was not married had no insurance. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$2,085.00 per month averaged out, or \$25,020 for the year. Appellant's income during those months was approximately \$2,400.00 per month. (Appellant's Testimony, Exhibit 4).
6. Appellants now have health insurance through one of the Appellant's employer. (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. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$736.00 for coverage for the family. According to Table 3, Appellants were deemed to afford \$700.00.
9. Private insurance was not affordable for the Appellants in 2019. (Schedule HC for 2019).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

G.L c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of

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

One of Appellants did have health insurance for all of 2019, and the other Appellant had health insurance for June through December of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for zero months for one of the Appellants and two months for the other Appellant. Appellants appealed the assessment. See Exhibits 2, 3 and 4. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the 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 Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$104,447.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$700.00 per month; according to Table 4, Appellants, who were 34 and 35 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$736.00 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, Appellants claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants’ expenses for food, shelter, clothing, vehicle expenses, and other necessities used most of the income for the months that one of the Appellants did not have health insurance and was not married to the other Appellant. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 0/2      Number of Months Assessed: 0/0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-93

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** March 2, 2021

**Decision Date:** May 3, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

One of Appellants appeared at the hearing, which was held by telephone, on March 2, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellants:

- Exhibit 1: Notices of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-1-20) (with documents) (7 pages); and
- Exhibit 4: Notice of prior hearing date (4-17-20) (2 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 32 and 31 during 2019, from Bristol County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. One of Appellants had health insurance for all of 2019, and the other Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2,).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$50,058.00 (Exhibit 2).
4. Appellant who had health insurance had it through Mass Health. The other Appellant had health insurance available through the employer but did not believe it was affordable to the Appellant. Appellant joined a different employer and now has health insurance through that employer. (Appellant's testimony, Exhibit 3).

5. Appellants received shut-off notices in February and April of 2019.
6. Appellant's expenses for food, shelter, clothing, transportation, child support and other necessities, used most of the available income. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$3,031.00 per month averaged out, or \$36,372.00 for the year. (Appellant's Testimony, Exhibit 3).
7. Appellant now has health insurance through one of the Appellant's employer. (Appellant Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$721.00 for coverage for the family. According to Table 3, Appellants were deemed to afford \$206.00.
10. Private insurance was not affordable for the Appellants in 2019. (Schedule HC for 2019).
11. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
12. Appellants claimed that they should be granted a waiver based on the grounds that they received shut-off notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
13. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellants were not homeless, were not thirty days or more behind in rent in 2019, however Appellants did receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

One of Appellants did have health insurance for all of 2019, and the other Appellant did not have health insurance for 2019. They have been assessed a tax penalty for zero months for one of the Appellants and twelve months for the other Appellant. Appellants appealed the assessment. See Exhibits 2, 3 and 4. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the 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 Appellants during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$50,058.00 were deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$206.00 per month; according to Table 4, Appellants, who were 32 and 31 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$721.00 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, Appellants claimed that they received shut-off notices, and that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants received shut-off notices for February and April, and Appellants' expenses for food, shelter, clothing, vehicle expenses, and other necessities used most of the income. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 12/0    Number of Months Assessed: 0/0

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

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

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

Hearing Officer

Cc:    Connector Appeals Unit



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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-99

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2020 Tax Year Penalty  
**Hearing Date:** May 10, 2021  
**Decision Date:** May 24, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated Feb. 24, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated April 5, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 37 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Suffolk County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$62,196 in 2020 (Exhibit 2).
4. Appellant was unemployed from December 2019 to August 2020 (Testimony of Appellant).
5. Appellant struggled to pay for necessary expenses during the time of unemployment (Testimony of Appellant).
6. Appellant had very high medical expenses and paid over \$8,000 for medical expenses during 2020 (Testimony of Appellant).
7. Appellant had difficulty finding a job due to the Covid 19 pandemic (Testimony of Appellant).
8. Appellant began a new job in September 2020 (Testimony of Appellant).
9. After a waiting period, Appellant began enrollment in employer sponsored health insurance beginning in November 2020 (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

11. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$62,196 could afford to pay \$415 per month for private insurance. According to Table 4, Appellant, age 37 and living in Suffolk County could have purchased private insurance for \$288 per month.
12. Private insurance was considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
13. According to Table 2 of Schedule HC for 2020, Appellant, earning more than \$37,470 was not income eligible for government subsidized health insurance.
14. Appellant did not have health insurance for ten months in 2020 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for seven months for 2020 (Exhibit 2).
16. Appellant filed a hardship appeal on February 24, 2021 (Exhibit 2).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered able to afford private health insurance in 2020. Since Appellant potentially had access to affordable insurance for 2020, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant was unemployed during January through August 2020. Appellant struggled to pay for basic expenses during that time period. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

### **PENALTY ASSESSED**

Number of Months Appealed: 7

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA16-802

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** March 2, 2021

**Decision Date:** May 3, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on March 2, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (2-5-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2016 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (10-11-20) (with letter and documents) (6 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 51 during 2016, from Middlesex County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2016. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2016 was \$102,469.00 (Exhibit 2).
4. Appellant's father and nephew live with Appellant and Appellant pays all expenses. (Appellant testimony).
5. Appellant has had health insurance since 2017. (Appellant testimony).
6. Appellant's mother passed away this past year, and Appellant has additional expenses for tax payments and also for helping Appellant's father and nephew. (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 for Appellant and Appellant's father and nephew, totaled approximately \$6,879.00 per month averaged out, or \$82,551.00 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 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 afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$314.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$608.00.
10. Private insurance was affordable for the Appellant in 2016 (Schedule HC for 2016).
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 2016).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2016 (Exhibit 3).
14. Appellant was not homeless in 2016, was not more than 30 days in arrears in rent or mortgage, and did not receive an eviction or foreclosure notice. (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 not have health insurance for 2016. 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 2016. According to Tables 3 and 4 of the HC Schedule for 2016, Appellant, with an adjusted gross income of \$102,469.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$608.00 per month; according to Table 4, Appellant, who was 51 years old in 2016, lived in Middlesex County and filed the 2016 Massachusetts taxes as single with a family size of 1, would have had to pay \$314.00 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. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. Appellant has had health insurance since 2017. 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: 12      Number of Months Assessed: 0

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

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

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

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: PA19566

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

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

**Hearing Date:** March 30, 2021

**Decision Date:** May 18, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on March 30, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on April 7, 2020 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 2a: Appeal Case Information from Schedule HC 2019 showing dismissal of appeal on September 4, 2020
- Exhibit 2b: Appellant's letter to Connector dated September 15, 2020 requesting vacating of dismissal
- Exhibit 2c: Appeal Case Information from Schedule HC 2019 showing vacating of dismissal of appeal on September 22, 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated August 10, 2020 for September 14, 2020 hearing
- Exhibit 3: Notice of Hearing sent to Appellant dated March 4, 2021 for March 30, 2021 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 22 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Bristol County in 2019. Appellant moved to Massachusetts some time in 2018 to attend school (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$50,224 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was a student at a technical school in 2019. Appellant graduated at the end of the year (Testimony of Appellant).



5. Appellant was employed from January through August as service technician for a car dealership. Appellant worked about thirty hours a week and was paid \$16.00 an hour. In September, 2020, Appellant started work at another dealership. Appellant worked fewer hours. At first he was paid \$16 an hour and then \$24 (Testimony of Appellant).

5. Appellant had had health insurance provided by his parents who did not live together. Appellant's mother provided the insurance until the appellant turned 16. Then one parent would cover him one year and the other would cover him the next year. Without informing the appellant, the parents stopped covering him. Appellant did not realize he had no coverage until some time in 2019. Appellant had no coverage all year. Appellant did not realize that he was required to have coverage in the Commonwealth (Testimony of Appellant, Exhibit 2).

6. At both jobs, Appellant was not eligible for health insurance coverage. Health insurance was offered at both dealerships, but the employee had to have worked at the dealership a certain amount of time before the employee was eligible. At both jobs, the appellant had not worked at the dealership long enough to obtain insurance (Testimony of Appellant).

7. Appellant obtained health insurance as of January 1, 2020 and still had coverage as of the date of this hearing (Testimony of Appellant).

8. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

10. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$50,224 could afford to pay \$334 per month for health insurance. According to Table 4, Appellant, 22 years old and living in Bristol County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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

11. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).

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

13. Appellant had the following monthly expenses for basic necessities in 2019: rent including heat-\$525; electricity-\$40; telephone and internet-\$65; food-\$480; car insurance-\$94; gas-\$120 on average; clothing-\$35. In addition, Appellant had to pay for tools for his job. He spent \$645 a month on these (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

The appellant has been assessed for a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance as of January 1, 2020. Since Appellant is entitled to a three-month grace period before obtaining coverage, his penalty for October through December is waived. See the testimony of the appellant which I find to be credible and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$50,244 could afford to pay \$334 per month for health insurance. According to Table 4, Appellant, 22 years old and living in Bristol County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2019. At both car dealerships where Appellant worked, an employee had to work a certain amount of time in order to be eligible for coverage. Appellant did not qualify at either job. See the testimony of the appellant which I find to be credible, and Exhibit 2.

Appellant was not eligible for the ConnectorCare program. His annual Federal Adjusted Income was \$50,316, more than the income limit for one person (\$36,420). See 956 CMR 12.00 et. seq.

Appellant moved to Massachusetts in 2018 as a student. He thought he had coverage under one of his parents plans, since his parents had provided coverage in the past. In fact, his parents had stopped covering him. Since Appellant did not know this, he did not look for coverage. It was only during the year that he realized he had no coverage. By then, the open enrollment period was over. The appellant also did not realize that in Massachusetts coverage was required by law. As soon as he could, Appellant obtained coverage (as of January 1, 2020). See the testimony of the appellant which I find to be credible.

I also note that from January through August, Appellant earned \$16 an hour and worked about 30 hours a week. His gross income during these months came to about \$1,900 a month. His expenses came to about \$2,000 a month

during these months.\*\* During these months, the cost of purchasing insurance would have caused the appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e) and (3).

---

\*\* Appellant had the following monthly expenses for basic necessities in 2019: rent including heat-\$525; electricity-\$40; telephone and internet-\$65; food-\$480; car insurance-\$94; gas-\$120 on average; clothing-\$35. In addition, Appellant had to pay for tools for his job. He spent \$645 a month on these. See the testimony of Appellant.

Based upon these facts summarized above, I determine that the appellant's penalty should be waived in its entirety in part because of financial hardship and in part because of Appellant's particular circumstances concerning past coverage and Appellant's loss of this coverage without his knowledge.

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

### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19637

**Appeal Decision :** Penalty waived in full

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

**Hearing Date:** March 30, 2021

**Decision Date:** May 19, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on March 30, 2021. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on May 11, 2020 with letter in support by Appellant and a letter by Appellant's employer regarding health insurance attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 2a: Appeal Case Information from Schedule HC 2019 showing dismissal of appeal on September 24, 2020
- Exhibit 2b: Appellant's request for new hearing date
- Exhibit 2c: Appeal Case Information from Schedule HC 2019 showing vacating of dismissal of appeal on October 1, 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for hearing on September 23, 2020
- Exhibit 3a: Notice of Hearing sent to Appellant dated March 4, 2021 for hearing on March 30, 2021

### **FINDINGS OF FACT:**

The record shows, and I so find:

1. The appellant was 31 years old in 2019. He filed a 2019 Massachusetts tax return as a single person with no dependents. Appellant has no children (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Norfolk County, MA in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal Adjusted Gross Income of \$97,585 in 2019. Appellant worked outside of Massachusetts (Testimony of Appellant, Exhibit 2).
4. In 2019, Appellant had health insurance through employment that met Federal standards. The insurance did not meet the Commonwealth's minimum creditable coverage standards. (Testimony of Appellant).



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: PA19-920

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** April 23, 2021

**Decision Date:** April 27, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 23, 2021. The Appellant was represented by an attorney from Greater Boston Legal Services (GBLS). 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 or their attorney. The hearing record consists of the Appellant's testimony, Attorney argument and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 17, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on July 28, 2020.
- Exhibit 4: Letter from the Appellant's GBLS Attorney in support of this appeal dated August 3, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 60 in February 2019, 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 \$30,251 (Exhibit 2).
4. The Appellant did not have insurance for any months of 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 (Exhibits 2, 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 \$30,251 could afford to pay \$106 per month for health insurance. In accordance with Table 4, the Appellant, age 60, living in Norfolk County, could have purchased private insurance for \$418 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 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's attorney argued that the Appellant's after-tax income was approximately \$25,000. The Attorney had advised the Appellant to increase their state withholding amount because the Appellant had underpaid their taxes in prior years and had to pay lump sum payments. The Appellant was unable to afford the ConnectorCare premium and meet their living expenses (Exhibit 4).
11. The Appellant's 2019 monthly living expenses of \$2,003 included: rent-\$1,020; heat-\$70; electricity-\$70; telephone-\$37; food-\$260; car loan-\$219; car insurance-\$140 gasoline-\$87 and medication \$100. The Appellant testified that in tax year 2019 they had additional expenses caring for their adult son who ultimately lost their life due to cancer. The Appellant said that they struggled to meet their expenses and could not afford to pay a health insurance premium. The Appellant said that they are diabetic and need health insurance but cannot afford it. I found the Appellant to be credible (Exhibit 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant 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 \$30,251 could afford to pay \$106 per month for health insurance. According to Table 4, the Appellant, age 60, living in Norfolk County, could have purchased a private insurance plan for \$418 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 for their household of one. 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 to monthly living expenses of \$2,003. In addition to these expenses, the Appellant incurred additional expenses to care for their terminally ill child who lost their life to cancer. The Appellant's attorney argued that the Appellant's after-tax income is approximately \$25,000 and the Appellant struggled to meet their living expenses and care for their ill family member with limited income. The Appellant has demonstrated that the cost of purchasing health insurance in tax year 2019 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)(d)(e), (3).

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

Luz Arevalo, Esq.  
Greater Boston Legal Services  
197 Friend Street  
Boston, MA 02114

**ADDENDUM**

The Appellant is reminded that they may contact Health Connector Customer Service at 1-877-623-6765 to apply for ConnectorCare coverage. The Appellant may also request the information needed to apply for a Premium Waiver or Reduction due to financial hardship.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-934

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** April 23, 2021

**Decision Date:** April 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 23, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 17, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on August 3, 2020, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, age 39 in June 2019, 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 \$23,923 (Exhibit 2).
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 August 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 \$23,923 could afford to pay \$58 per month for health insurance. In accordance with Table 4, the Appellant, age 39, living in Middlesex County, could have purchased private insurance for \$286 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 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they borrowed money from family to purchase their home. They are required to pay \$10,000 annually for the loan. The Appellant's 2019 monthly expenses of \$1,630 included: home loan-\$834; heat and electricity- \$300; telephone-\$74; car insurance-\$92; gasoline-\$130 and food-\$200. The Appellant said that they spent \$2,000 for new tires and brakes for their vehicle. The Appellant said that they struggled to meet their expenses with their limited income. The Appellant said that they did try to find health insurance but was quoted a figure of \$600. I found the Appellant to be credible (Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant 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 \$23,923 could afford to pay \$58 per month for health insurance. According to Table 4, the Appellant, age 39, living in Middlesex County, could have purchased a private insurance plan for \$286 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 for their household of one. 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 explained that they looked into purchasing health insurance, but the premium payments given were very high. The Appellant testified to significant monthly living expenses as well as \$2,000 for needed car maintenance. The Appellant said that since they were having such a difficult time meeting these expenses, they could not afford to pay a monthly health insurance premium. 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

**ADDENDUM**

The Appellant is reminded that they may contact Health Connector Customer Service to apply for help with paying for health insurance through the ConnectorCare program at 1-877-623-6765.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-971

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** April 23, 2021

**Decision Date:** May 13, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 23, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 17, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on August 5, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated April 23, 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 27 years old in 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Franklin County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$41,617 (Exhibit 2).
4. According to the information in the Schedule HC 2019, 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 August 2020 citing grounds other than financial hardship (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 \$41,617 could afford to pay \$258 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Franklin County, could have purchased private insurance for \$231 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare in tax year 2019 because their income of \$41,617 exceeded 300% of the federal poverty level which was \$36,420 for a household of one (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they had health insurance through their employer in January 2019. The Appellant explained that they started a new job in February 2019 and was informed during orientation that they would be eligible for health insurance after sixty days of employment. The Appellant indicated that they contacted Human Resources on April 1, 2019 to ask if they could enroll in health insurance early because the Appellant needed dental care and medication for an infection. Human Resources informed the Appellant that they had to wait until May. The Appellant explained that they waited for paperwork to be given to them and contacted Human Resources again in June. The Appellant said that they were then told that open enrollment for the company insurance ended in April and it was too late for the Appellant to enroll. The Appellant said that they were not told about open enrollment when they contacted Human Resources in April. The Appellant said that they contacted MassHealth but was told that they were not eligible for health insurance because their employer offered health insurance. The Appellant's credible testimony is supported by copies of E-mails between the Appellant and Human Resources at the Appellant's place of employment (Exhibit 4 and Appellant Testimony).
10. The Appellant testified credibly that they are currently enrolled in a health insurance plan (Appellant Testimony).
11. The record was left open until May 7, 2021 to allow the Appellant to submit additional information verifying their January 2019 health insurance coverage (Exhibit 5).
12. The Appellant did not submit any additional information during the record open period.

## **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.

According to the Appellant's Schedule HC 2019, the Appellant did not have health insurance for any months in tax year 2019. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$41,617 could afford to pay \$258 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Franklin County, could have purchased private insurance for \$231 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant's income of \$41,617 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was therefore not financially eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).

The Appellant testified that they started a new job in February 2019 and was informed during orientation that they would be eligible for health insurance after sixty days of employment. The Appellant contacted Human Resources on April 1, 2019 to request that they be allowed to enroll in April since the Appellant had needed medical/dental treatment pending. Human Resources informed the Appellant that they could not enroll prior to May. The Appellant expected paperwork to arrive in May and contacted Human Resources again in June. Human Resources informed the Appellant that they had missed open enrollment in April and could not enroll in a health insurance plan until the next open enrollment for 2020. The Human Resources E-mail of April 1, 2019 did not mention open enrollment. The Appellant testified credibly that they thought they were all set for May and did not know they were required to do something else in April.

The Appellant said that they contacted MassHealth in June and was informed that they were not eligible. As of June 2019, the Appellant was not eligible to enroll in a Health Connector Plan because open enrollment had ended, and the Appellant would not have been able to verify a qualifying life event that would have entitled them to a special enrollment period. See 45 CFR § 155 and 956 CMR 12.10.

The Appellant indicated that they did have health insurance through a prior employer in January 2019. Although the Appellant did not submit documentation of coverage, based on the evidence and testimony in the record the testimony is accepted. As noted above, there is a three-month grace period to allow a taxpayer to make the transition between health insurance policies. The Appellant began a new job in February and expected to be enrolled in an employer sponsored health plan as of May. The Appellant did make a good faith effort to successfully enroll in a plan when they contacted Human Resources in April 2019 and again in June 2019. The Appellant's testimony that they were not informed that they had to take additional steps to enroll in a plan in April was supported by the E-mail correspondence between the Appellant and Human Resources. The Appellant



was finally informed in June 2019 that they would not be eligible for health insurance through their employer for tax year 2019. By this time, the Appellant was ineligible for insurance through the Health Connector due to the open enrollment and special enrollment period regulations found at 45 CFR 155 §420 and 956 CMR 12.10(5). Under these circumstances, the Appellant was unable to enroll in a health insurance plan that met minimum creditable coverage standards during tax year 2019. 956 CMR 6.08(3). The Appellant's twelve-month penalty is therefore waived.

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-972

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** April 23, 2021

**Decision Date:** April 27, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 23, 2021. The Appellant Spouse did not appear. 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 March 17, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated July 30, 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 40, and their Spouse age 47 in 2019, filed their 2019 Federal Income Tax return as a married couple with one dependent claimed (Exhibit 2).
2. The Appellants lived in Norfolk County, MA in 2019 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$72,647 (Exhibit 2).
4. The Appellants did not have health insurance for any months in tax year 2019 and are both being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellants filed an appeal of the assessment in July 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 Appellants filing the Federal tax return as a married couple with one dependent claimed, with an annual adjusted gross income of \$72,647 could afford to pay \$451 per month for health insurance. In accordance with Table 4, the Appellants with one partner age 47, living in Norfolk County, could have purchased private insurance for \$855 per month for a family plan (Schedule HC for 2019). Private insurance was not affordable for the Appellants in tax year 2019.
8. The Appellant testified that they are self-employed, and their Spouse worked for an employer that did not offer any health insurance. The Appellants did not have access to employer sponsored health insurance in tax year 2019 (Appellant Testimony).
9. The Appellants would not have been eligible for ConnectorCare coverage in 2019 because the Appellants' income was greater than 300% of the federal poverty level, which was \$62,340 for a household of three in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified that they looked into purchasing health insurance but could not find a plan that was affordable. The Appellant said that they separated from their Spouse in 2019 and in addition to their other expenses they had to pay rent for two residences. The Appellants' marital status changed in 2021 and the Appellant remains uninsured as of the date of the Hearing (Exhibit 4 and Appellant Testimony).
11. In tax year 2019 the Appellants 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 Appellants filed their 2019 tax return as a married couple with one dependent claimed. The Appellants did not have health insurance for any months in tax year 2019 and consequently have each been assessed a twelve-month penalty. The Appellants appealed the penalty citing 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 Appellants through employment, through private insurance, or through a government sponsored program. If affordable insurance

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

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of \$72,647 could afford to pay \$451 per month for health insurance. In accordance with Table 4, the Appellants, with one partner age 47 living in Norfolk County, could have purchased private insurance for \$855 per month for a family plan (Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.

The Appellants did not have access to employer sponsored insurance in tax year 2019. The Appellants would not have been eligible for ConnectorCare coverage in 2019 because the Appellants' income of \$72,647 was greater than 300% of the federal poverty level, which was \$62,340 for a household of three in 2019.

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

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

**PENALTY ASSESSED**

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

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

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

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

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

Cc:     Connector Appeals Unit

**ADDENDUM**

The Appellant is reminded that they may contact Health Connector Customer Service at 1-877-623-6765 to report their 2021 change in marital status and apply for health insurance coverage as a household of two.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-979

**Appeal Decision:** Appeal Denied.

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

**Hearing Date:** April 23, 2021

**Decision Date:** May 24, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 23, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 17, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on August 4, 2020.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated April 23, 2021.
- Exhibit 5: Additional information submitted by the Health Connector on April 27, 2021.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 36 years old in August 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 \$57,051 (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 August 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 \$57,051 could afford to pay \$380 per month for health insurance. In accordance with Table 4, the Appellant, age 36, living in Middlesex County, could have purchased private insurance for \$286 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant testified that their employer did offer health insurance because the Appellant only works 29 hours per week (Appellant Testimony).
9. The Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant filed an appeal in August 2020 alleging that purchasing health insurance would have caused them to experience a deprivation of food, clothing, shelter and/or other necessities. The Appellant did not submit any supporting documentation with the Appeal request (Exhibit 3).
11. The Appellant's 2019 monthly living expenses of \$3,092 included: rent and utilities-\$1,100; car loan-\$409; car insurance-\$375; gasoline-\$260; average food-\$758 and student loans- \$70. The Appellant said that they also pay \$400-\$500 for credit cards as well as state and federal taxes (Appellant Testimony).
12. The Appellant did not fall behind in their rent or utility payments and did not incur any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Appellant Testimony).
13. The Appellant was asked if they had attempted to obtain health insurance and the Appellant testified that they applied through the Health Connector but were denied multiple times due to their income. As of the date of the hearing, April 23, 2021, the Appellant remains uninsured (Appellant Testimony).
14. The Record was left open until May 7, 2021 to allow the Health Connector to be contacted to provide copies of all eligibility denial notices issued to the Appellant during the period of November 2018 through December 2019 (Exhibit 4).
15. On April 27, 2021 Health Connector filed a written response verifying that no eligibility notices were issued to the Appellant during the period of November 2018 through December 2019. The response was forwarded to the Appellant who was given until May 21, 2021 file a written response (Exhibit 5).
16. The Appellant did not submit any additional information during the record open period.

## **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 of tax year 2019 and consequently has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal based on 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 \$57,051 could afford to pay \$380 per month for health insurance. In accordance with Table 4, the Appellant, age 36 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.

The Appellant indicated that they did not have access to affordable employer sponsored health insurance in tax year 2019. The Appellant’s income of \$57,051 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 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 testified to monthly living expenses including student loan payments totaling \$3,092. In addition, the Appellant indicated that they pay \$400-\$500 for credit cards in addition to state and federal taxes. The Appellant did not verify that they fell behind in their rent or utility payments and did not incur any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster.

The Appellant testified that they applied for health insurance through the Health Connector multiple times in tax year 2019 but was denied due to their income. Since this testimony was inconsistent with Health Connector policy, the Record was left open to have Health Connector submit copies of any eligibility notices issued to the Appellant during the period of November 2018- December 2019. Health Connector researched the Appellant’s claim and verified that no eligibility notices were issued to the Appellant during the period of November 2018- December 2019. The Appellant was given until May 21, 2021 to file a written response. No additional information was submitted by the Appellant.

Given the Appellant's income of \$57,051 and the fact that the Appellant could have purchased private insurance at a cost of \$286 per month, considering all the Appellant's monthly expenditures, 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: PA19-980

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** April 23, 2021

**Decision Date:** April 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on April 23, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 17, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on August 8, 2020, with attachments.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant turned 30 years old in 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$47,344 (Exhibit 2).
4. The Appellant had health insurance for the months of January and February but did not have health insurance for the period of March through December in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in April 2020 citing grounds other than financial hardship (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 \$47,344 could afford to pay \$300 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Suffolk 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 was not financially eligible for ConnectorCare in tax year 2019 because their income of \$47,394 exceeded 300% of the federal poverty level which was \$36,420 for a household of one (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they left a former employer on August 1, 2018 and was given continued health insurance coverage through COBRA at no cost until February 18, 2019. As of March 2019, the Appellant said that they would have had to pay \$280 for health coverage alone, not including dental. The Appellant said that they let the coverage lapse hoping to find a more affordable health plan (Exhibit 2 and Appellant Testimony).
10. The Appellant applied for ConnectorCare on May 1, 2019. Based on the Appellant's reported income equal to 345.95% of the federal poverty level, Health Connector determined the Appellant eligible for Health Connector Plans with Advance Premium Tax Credits of \$0. The Health Connector also determined on May 1, 2019 that the Appellant was not eligible to enroll in a health plan because the open enrollment period had ended, and the Appellant did not verify that they had a qualifying life event that entitled them to a special enrollment period (Exhibit 3).
11. The Appellant testified that they did not realize that they only had sixty days to enroll in health insurance after their coverage ended in February 2019. The Appellant said that after being informed on May 1, 2019 that they could not enroll there was nothing the Appellant could do to obtain health insurance (Exhibit 3 and Appellant Testimony).
12. The Appellant testified credibly that they are currently enrolled in a health insurance plan (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 had health insurance in January and February but did not have health insurance for the period of March through December in tax year 2019. The Appellant has consequently been assessed a seven-month penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$47,344 could afford to pay \$300 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Suffolk 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 had free employer sponsored health insurance through COBRA for the period of August 2019 through February 18, 2019. The Appellant had the option to continue this coverage at a cost of \$280 per month but declined to do so hoping to obtain a less expensive plan through the Health Connector.

The Appellant did not seek coverage in March or April in 2019. On May 1, 2019, the Appellant applied for ConnectorCare. The Appellant's income of \$47,394 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was therefore not financially eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04). The Appellant was not eligible to enroll in a Health Connector Plan as of May 1, 2019 because open enrollment had ended, and the Appellant did not verify a qualifying life event that would have entitled them to a special enrollment period. See.

The Appellant argues that they did not know about the 60-day time limit to apply for health insurance after their insurance ended in February 2019 and therefore the Appellant should not be held responsible for failing to have health insurance for the period of May through December in tax year 2019.

As noted above, there is a three-month grace period to allow a taxpayer to make the transition between health insurance policies. The Appellant's health insurance ended in February and the Appellant therefore has been assessed a seven-month penalty for the period beginning June 2019. The Appellant did attempt to obtain health insurance during this period but on May 1, 2019 was denied enrollment due to the open enrollment and special enrollment period regulations found at 45 CFR 155 §420 and 956 CMR 12.10(5). Under these circumstances, the Appellant could not afford to purchase health insurance that met minimum creditable coverage standards during the period of May through December in tax year 2019. 956 CMR 6.08(3). The Appellant's seven-month penalty is therefore waived.

#### **PENALTY ASSESSED**

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA20-102

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 10, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on May 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

Exhibit 1: Tax information sheet from DOR Schedule HC

Exhibit 2: Statement of Grounds for Appeal, dated February 25, 2021 and supporting documents

Exhibit 3: Notice from Appeals Unit, dated April 5, 2021

Exhibit 4: Final appeal decision for 2015

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 34 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Norfolk County during 2020 (Exhibit 1 and Testimony of Appellant).
3. Appellant's Adjusted Gross Income for 2020 was \$51,654 (Exhibit 1).
4. Appellant worked for a temporary staffing agency (Testimony of Appellant).
5. Appellant's positions were unstable and subject to termination upon short notice (Testimony of Appellant).
6. Since Appellant's positions were unstable, Appellant lived with family and tried to save money in case Appellant became unemployed (Testimony of Appellant).
7. Appellant was enrolled in employer sponsored health insurance in 2020 (Exhibit 2 and Testimony of Appellant).
8. Appellant's insurance had very limited coverage (Exhibit 2 and Testimony of Appellant).
9. Appellant had difficulty locating local providers that accepted the insurance and Appellant did not receive medical care in 2020 (Testimony of Appellant).

10. Appellant's health insurance during 2020 met the minimum essential coverage standard under the Affordable Care Act (Exhibit 2 and Testimony of Appellant).
11. Appellant did not become aware until February 2021 that the health insurance did not meet the Massachusetts creditable coverage standards (Exhibit 2 and Testimony of Appellant).
12. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
13. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$51,654 could afford to pay \$344 per month for private insurance. According to Table 4, Appellant, age 34 and living in Norfolk County could have purchased private insurance for \$288 per month.
14. Private insurance was considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
15. According to Table 2 of Schedule HC for 2020, Appellant, earning \$51,654 would not have been income eligible for government subsidized health insurance.
16. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
17. Appellant filed an Appeal and a Statement in support of Appeal appealing the assessment of the penalty on February 25, 2021 (Exhibit 2).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L.c. 111M, sec. 2(b) and for Tax Year 2016, Administrative Bulletin 03-10: Guidance Regarding M.G.L.c. 111M and M.G.L.c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1). 956 CMR 6.08(2)(d) provides that the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

During January through December 2020, Appellant was covered by employer sponsored health insurance that did not meet the Massachusetts standards. The issue to be decided is whether the policy substantially met the Massachusetts minimum creditable coverage standards and whether Appellant's circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements.

During 2020, Appellant worked for an out of state employer. Appellant purchased health insurance offered through the employer. The employer sponsored health insurance met the minimum essential coverage standards under the Affordable Care Act. The insurance did not meet the Massachusetts standards and the insurance was limited. Appellant was considered able to afford private insurance. However, Appellant did not become aware that the plan did not meet the Massachusetts standards until 2021. See Exhibits 1 and 2 and Testimony of Appellant, which I find to be credible.

**Given these circumstances, I will waive the penalty for 2020. However, Appellant is advised that this decision is based upon the facts as I have found them for 2020 and should not assume that a similar decision will be made if Appellant fails to have health insurance that meets Massachusetts standards in the future.**

**PENALTY ASSESSED**

Number of Months Appealed: 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 2020 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 2020.

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

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

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-134

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 3, 2021

**Decision Date:** May 14, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 3, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Final Appeal Decision in PA19-532 dated October 6, 2020
- Ex. 4—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 59-years-old, is single, and has adult children. In 2020, she resided in Hampden County, MA. She did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the last time the appellant had health insurance was in 2019 for six months (February through July) through the Health Connector. (Testimony, Ex. 3)
3. The appellant was employed in 2020, but the employer did not offer health insurance. She investigated health insurance options for 2020 through the Health Connector in mid-October, 2019, and was preliminarily advised that she was eligible for Health Connector Plans based on a self-reported income within 544.44% of the Federal Poverty Level (FPL). She interpreted the determination to mean that she was "unable to enroll" and did not do any further investigation of her options for 2020. (Testimony, Ex. 1)

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.



4. The appellant fell behind with her payments to her gas and electric provider in 2020, and she believes that she may have received a shut-off notice at some point during the year. According to an invoice from the provider dated February 18, 2021, she had a balance of \$708.00 in addition to other monthly charges. (Testimony, Ex. 1)
5. The appellant was assessed a penalty of two months for the 2019 tax year for failure to obtain health insurance for the entire year. She filed an appeal of the penalty, and following a hearing, the penalty was waived. The hearing officer concluded that the appellant demonstrated financial hardship based on shut-off notices for her heat and utilities as well as other factors including credit card debt and water damage to her home for which she had to pay an insurance deductible. (Testimony, Ex. 3)
6. The appellant investigated health insurance options for 2021 through the Health Connector and concluded that she could not afford the cost. (Testimony)
7. The appellant reported an adjusted gross income of \$70,832.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Ex. 2)
8. In 2020, the appellant had regular monthly expenses of approximately \$3055.00 for her mortgage which included real estate taxes and homeowner's insurance (\$1440.00), water and sewer service (\$70.00), heat and electricity (\$200.00), cable and internet service (\$190.00), cell phone (\$200.00), automobile loan (\$350.00), automobile insurance (\$130.00), gasoline (\$75.00), and food (\$400.00). In addition, the appellant paid approximately \$685.00/month for credit card debt. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she stated in part that the cost of health insurance through the Health Connector would have been approximately \$400.00/month which she could not afford. She further stated that she is behind on her water and sewer bill and her gas and electric bill, and was unable to obtain a copy of a shut-off notice that she received in 2020 for her gas and electric service.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not

subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she was employed in 2020 but her employer did not offer health insurance. She testified that she investigated insurance options for 2020 through the Health Connector and interpreted the determination she received to mean that she was not eligible for insurance. She testified that she fell behind with her gas and electricity payments and believes that she may have received a shut-off notice, but could not obtain a copy from the provider. She testified that she was assessed a penalty of two months for the 2019 tax year, and that following an appeal and a hearing, the penalty was waived on the grounds of financial hardship. Finally, she testified that she has not enrolled in insurance for 2021 because the cost is unaffordable.

The evidence provided by the appellant established that her income for 2020, \$70,832.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$472.21 (8.00% of \$70,832.00/12). Table 4 of the Premium Schedule indicates that a 58-year-old individual (the age of the appellant in 2020) in Hampden County (where the appellant resided in 2020) could have purchased private health insurance for \$387.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2020, she incurred basic monthly expenses of approximately \$3740.00 including her credit card debt. Those expenses were less than her regular monthly pre-tax income of approximately \$5903.00, thereby making a private health insurance premium of \$387.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2163.00/month is not a panacea, it does not appear on its face that the payment of \$387.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be reduced to mitigate its harshness. In addition, although the appellant was unable to produce a shut-off notice for her gas and electric service in 2020, it is clear that she had difficulty making her payments based on the outstanding balance she carried into early 2021. A reduced penalty also makes the point that the appellant is expected to comply with the Legislature's requirement that Massachusetts residents must have compliant health insurance coverage.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **reduced** from twelve months to one month. The determination that the appellant is eligible for a partial waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   1  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

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

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

Hearing Officer

Cc: Connector Appeals Unit

**ADDENDUM**

The appellant is advised that the open enrollment period for health insurance for 2021 has been extended until May 23, 2021. She is encouraged to investigate her options for health insurance through the Health Connector at [mahealthconnector.org](http://mahealthconnector.org) or by contacting customer service at 1-877-623-6765.

The appellant is further advised not to rely on a similar extension of leniency should she be assessed and appeal a penalty for not having health insurance in the future.

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA20-143

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 27, 2021

**Decision Date:** May 29, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 27, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated April 13, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 3, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty- five years old and is single. She lives in Plymouth County, Massachusetts. Appellant works in the education business.
2. Appellant made a mistake in filing her tax return. Appellant indicated that she did not have health insurance when in fact she had health insurance for the whole year in 2020. Appellant provided a form 1095B, which proved that she had health insurance and Appellant testified that she had health insurance.
3. Appellant did have health insurance in 2020 and does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . Appellant had health insurance
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 2020. 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 2020.

## **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.

Appellant made a mistake in filing her tax return. Appellant indicated that she did not have health insurance when in fact she had health insurance for the whole year in 2020. Appellant provided a form 1095B, which proved that she had health insurance and Appellant testified that she had health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule

established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant made a mistake in filing her tax return. Appellant indicated that she did not have health insurance when in fact she had health insurance for the whole year in 2020. Appellant provided a form 1095B, which proved that she had health insurance and Appellant testified that she had health insurance.

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 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 2020 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 2020.

**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: PA120-144

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 27, 2021

**Decision Date:** May 31, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 27, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated April 13, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 8, 2021
- Exhibit 4: Written Statement of Appeal Dated March 8, 2021



## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant worked in an industrial business. The company he worked for did not offer health insurance.
3. Appellant had to leave his job in 2020 because his company did not take precautions to protect their employees from Covid 19. Appellant interviewed for other jobs in 2020 but did not get any offers. Appellant concentrated on getting a new job in 2020.
4. Appellant does not have health insurance in 2021 but applied to the Health Connector in March 2021 but did not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,938.00, consisting of rent \$500.00, internet and cable \$350.00, cell phone \$100.00, car insurance \$110.00, car gas \$60.00 food \$240.00, credit card \$258.00 entertainment \$60.00, toiletries \$200.00..
6. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal but should have under , " During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$29,666.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Norfolk County for a 49 year old single person was \$361.00. The tables reflect that Appellant could afford \$103.83. 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-2020 under the grounds for Appeal but should have under , “ During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2200. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$29,666.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$103.83 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$361.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant had to leave his job in 2020 because his company did not take precautions to protect their employees from Covid 19. Appellant interviewed for other jobs in 2020 but did not get any offers. Appellant concentrated on getting a new job in 2020. He could not afford health insurance in 2020, even subsidized insurance through the Health Connector.

Appellant is deemed to afford \$103.83 for health insurance coverage because of his income. Private insurance in the market place was \$361.00 per month, which is more than he could afford.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2020 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 2020 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 2020.

**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: PA20-146

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 27, 2021

**Decision Date:** May 29, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 27, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated April 13, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 3, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty- five years old and is single. She lives in Plymouth County, Massachusetts. Appellant works in the education business.
2. Appellant made a mistake in filing her tax return. Appellant indicated that she did not have health insurance when in fact she had health insurance for the whole year in 2020. Appellant provided a form 1095B, which proved that she had health insurance and Appellant testified that she had health insurance.
3. Appellant did have health insurance in 2020 and does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . Appellant had health insurance
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 2020. 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 2020.

## **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.

Appellant made a mistake in filing her tax return. Appellant indicated that she did not have health insurance when in fact she had health insurance for the whole year in 2020. Appellant provided a form 1095B, which proved that she had health insurance and Appellant testified that she had health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule

established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant made a mistake in filing her tax return. Appellant indicated that she did not have health insurance when in fact she had health insurance for the whole year in 2020. Appellant provided a form 1095B, which proved that she had health insurance and Appellant testified that she had health insurance.

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 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 2020 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 2020.

**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: PA20-183

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 26, 2021

**Decision Date:** May 30, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 26, 2021 and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 25–years-old, is single, and does not have children. She did not have health insurance in 2020. (Testimony, Ex. 2) <sup>2</sup>
2. Prior to 2020, the appellant had health insurance in 2018 and 2019 under her father’s plan. (Testimony)
3. The appellant’s father moved to Ireland at some point in 2019. The appellant had no reason to believe that the move impacted the health insurance she had under his plan. (Testimony)
4. The appellant was employed as a bartender from the beginning of 2020 until Covid 19 forced the closure of the business. She procured an unpaid internship during the summer and became a full-time paid staff

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

<sup>2</sup> Although the appellant indicated on her Schedule HC that she had insurance for the months of January through March, there is discussion in the Analysis portion of the decision as to whether there is evidence to support that claim.

member in September, 2020. She was eligible for employer health insurance at that time, but declined because she believed that her father's plan offered better benefits. (Testimony)

5. The appellant received chiropractic services in September, 2020 and was advised by the practice that she had insurance coverage. She had several sessions with the chiropractor and was not billed for services, underscoring her assumption that her coverage was in effect. In addition, the appellant became sick with Covid and saw her PCP, but was not billed for services, and also had dental appointments for which she was not billed. (Testimony)
6. At some point in December, 2020, the appellant had a dental appointment and was advised by the practice that her insurance had been deactivated in March, 2020. This constituted the first notice of an issue with her insurance. In early 2021, the appellant contacted the health insurance provider to ascertain her status and was notified that her insurance had been terminated in March. She asked her employer whether she could enroll in the insurance she had declined and was told that she had missed the open enrollment period. (Testimony)
7. The appellant eventually spoke with her father who advised her that his insurance ended when he moved to Ireland. (Testimony)
8. In March, 2021, the appellant was billed for approximately \$1100.00 for the chiropractic services she received in September. She also received a bill from her PCP for her office visit in connection with Covid.
9. The appellant never received a 2020 Form 1099-HC or any other document indicating that she had health insurance for the months of January-March, 2020. She prepared her 2020 tax returns and indicated on her Schedule HC that she had coverage for those months based on the notifications she received in December, 2020 and January, 2021 that she was enrolled in insurance during those months. (Testimony, Ex. 2)
10. Subsequent to learning that she was uninsured, the appellant investigated insurance options through the Health Connector and enrolled in coverage effective May 1, 2021. (Testimony)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her during 2020 because "other" circumstances prevented her from obtaining insurance. She indicated on her Schedule HC that she was insured for the months of January through March even though she had no documentation to support that claim. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant indicated that she had coverage for the first three months of the year, she was assessed and is appealing a penalty of six months (i.e., the months of uninsurance less the gap period of three months).

The appellant testified credibly that she was insured in 2018 and 2019 under her father's insurance plan and had no knowledge until December, 2020 that her coverage had been terminated at the end of March, 2020 and possibly earlier. She testified that she began employment in September, 2020 and declined her employer's insurance because she believed her father's plan had superior benefits. She testified that she had several medical and dental appointments in September and thereafter, and was assured that her coverage was active. She testified that she did not receive any bills for any of her appointments and had no reason to believe that there was an issue. She testified that at a dental appointment in December, 2020, she was advised by the practice that her insurance had been deactivated in March, 2020. She testified that this information was corroborated by a phone call with the insurance provider in January, 2021, as well as a subsequent conversation with her father. She testified that she was unable to enroll in her employer's insurance because the open enrollment period had ended. Finally, she testified that she investigated her options through the Health Connector and was able to enroll in coverage effective May 1, 2021.

The appellant established by substantial and credible evidence that she reasonably believed she had insurance under her father's plan in 2020, particularly since she was not billed for medical or dental services she received during the year, and that she was completely unaware that she had lost coverage until being advised of the situation in December, 2020, and confirmed in early 2021. (The appellant's claim that she had insurance for the months of January-March is dubious at best based on the absence of documentation to support coverage for that period. Ultimately however, the paucity of evidence does not change the outcome of the appeal.) Accordingly, based on the totality of the evidence, it is concluded that the appellant should not be subject to a penalty for the months in question.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted**. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

#### **PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

#### **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: PA20-184

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 26, 2021

**Decision Date:** May 31, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 26, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>
- Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 33-years-old, is single, and does not have children. In 2020, she resided in Middlesex County, MA. She had health insurance from January through May in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant had never been assessed a penalty for failure to obtain health insurance. (Testimony)
3. The appellant was employed from January through May, 2020, at which time she lost her job due to COVID. During that time frame, she had employer health insurance. She was offered insurance through COBRA, but declined because the monthly premium would have cost approximately \$600.00 which she could not afford. (Testimony, Ex. 1)
4. Subsequent to her layoff, the appellant investigated insurance options through the Health Connector and determined that the plan she was eligible for would have cost approximately \$250.00/month

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

which she could not afford. In addition, her primary care physician did not accept that particular insurance. (Testimony, Ex. 1)

5. The appellant's sole source of income from June through December was unemployment insurance compensation. (Testimony)
6. The appellant began a new job in January, 2021 and has been enrolled in employer health insurance since that time. (Testimony)
7. The appellant reported an adjusted gross income of \$95,372.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Ex. 2)
8. In 2020, the appellant had regular monthly expenses of approximately \$3482.00 for her mortgage which included real estate taxes and master insurance (\$1900.00), homeowner's insurance (\$40.00), condominium fee (\$200.00), water and sewer service (\$33.00), heat and electricity (\$150.00), cable and internet service (\$125.00), cell phone (\$124.00), automobile loan (\$390.00), automobile insurance (\$140.00), gasoline (\$80.00), and food (\$300.00). In addition, the appellant paid \$300.00/month for a student loan and approximately \$500.00/month for credit card debt. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she stated in part that she was financially unstable after she was laid off in May and struggled to pay her regular monthly expenses out of her unemployment income.

The appellant did not have insurance from June through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for eight months, she was assessed and is appealing a penalty of four months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that she was employed from January through May, 2020, at which time she was laid off due to COVID. She testified that she had employer health insurance until the layoff. She testified that she was offered insurance through COBRA, but could not afford the premium. She testified that she investigated insurance options through the Health Connector and determined that the monthly premium was not affordable, in addition to the fact that her primary care physician did not accept the insurance for which she was eligible.

Finally, she testified that she started a new job in January, 2021, and has been enrolled in employer health insurance since that time.

The evidence provided by the appellant established that her income for 2020, \$95,372.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$636.00 (8.00% of \$95,372.00/12). Table 4 of the Premium Schedule indicates that a 32-year-old individual (the age of the appellant in 2020) in Middlesex County (where the appellant resided in 2020) could have purchased private health insurance for \$288.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2020, she incurred basic monthly expenses of approximately \$4282.00 including her credit card and student loan debt. Those expenses were less than her regular monthly pre-tax income of approximately \$7945.00, thereby making a private health insurance premium of \$288.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$3663.00/month is not a panacea, it does not appear on its face that the payment of \$288.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant was unemployed for seven months during a very trying time and indicated that she struggled to get back on her feet even after regaining employment in 2021. In addition, she has never been assessed a penalty for failure to obtain health insurance and enrolled in employer health insurance upon going back to work thereby demonstrating that the mandate of purchase insurance was not lost on her.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   4  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**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: PA20-185

**Appeal Decision:** Penalty Overturned in Full

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 26, 2021

**Decision Date:** May 31, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on May 26, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC <sup>1</sup>

Ex. 3—Notice of Hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is 43-years-old, is single, and does not have children. In 2020, he resided in Hampden County, MA. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the last time the appellant had health insurance was in 2019 for approximately six months through MassHealth. He was advised that his insurance was being terminated because his income no longer qualified him for benefits through MassHealth. (Testimony)
3. In 2020, the appellant held two part-time positions and was not eligible for health insurance due to his part-time status. He also had a third part-time position at a school, but was laid off when the school closed due to COVID. He investigated insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$300.00 which he could not afford (Testimony, Ex. 1)

---

<sup>1</sup> Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant's father became sick with COVID in August, 2020, was hospitalized and eventually died. Throughout his illness and prior to his hospitalization, the appellant, who lived many miles from his father, visited and took care of him. He covered all his expenses, including medication. Following his death, the appellant returned his body to the Dominican Republic. He used all of his savings to cover the cost of travel and burial. (Testimony, Ex. 1)
5. The appellant continued his part-time employment in 2021. He had just enrolled in health insurance through the Health Connector prior to the instant hearing for a monthly premium of approximately \$170.00. (Testimony)
6. The appellant reported an adjusted gross income of \$54,537.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2020, the appellant had regular monthly expenses of approximately \$1654.00 for rent (\$500.00), heat and electricity (\$160.00), pre-paid cell phone (\$20.00), automobile loan (\$394.00), automobile insurance (\$180.00), gasoline (\$200.00), and food (\$200.00). He often went to his local church for food. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that he lost one of his part-time jobs in 2020 due to COVID and lost his father to COVID.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he held two part-time positions in 2020 and was not eligible for health insurance due to his part-time status. He testified that he investigated insurance options through the Health Connector and determined that he could not afford the monthly premium of approximately \$300.00. He testified that his father became ill and died from COVID, and that prior to his hospitalization, he traveled a significant distance to see him and care for him. He testified that he used all of his savings to cover his father's expenses, including travel to and burial expenses in the Dominican Republic. Finally, he testified that prior to the instant hearing, he had enrolled in insurance through the Health Connector.

The evidence provided by the appellant established that his income for 2020, \$54,537.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$364.00 (8.00% of \$54,537.00/12). Table 4 of the Premium Schedule indicates that a 42-year-old individual (the age of the appellant in 2020) in Hampden County (where the appellant resided in 2020) could have purchased private health insurance for \$284.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

Even though private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is 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 2020, he incurred basic monthly expenses of approximately \$1654.00. Those expenses were less than his regular monthly pre-tax income of approximately \$4544.00, thereby making a private health insurance premium of \$284.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$2890.00/month is not a panacea, it does not appear on its face that the payment of \$284.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant established that he underwent extremely difficult circumstances in 2020 due to the loss of one of his part-time positions, and more importantly, the loss of his father to COVID. He offered compelling testimony that he used all of his savings to care for his father prior to his hospitalization and then to return his body to and bury him in the Dominican Republic. Last, the appellant indicated that he enrolled in health insurance just prior to the instant hearing thereby demonstrating that the mandate to obtain insurance was not lost on him.

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

Number of Months Appealed:   12  

Number of Months Assessed:   0  

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2020.

**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: PA20-221

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** June 16, 2021

**Decision Date:** June 26, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated May 11, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated February 28, 2021

## **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-seven old and is single. He lives in Hamden County, Massachusetts.
2. Appellant worked in a transportation business. The company he worked for did offer health insurance in 2020 but Appellant opted out of the health insurance because he did not know whether his business would be deemed an essential business and he was concerned he would be laid off from his job. Appellant opted back in to his health insurance in July 2020.
3. Appellant does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal, "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable."
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 2020. 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 2020.
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, because Appellant's income of \$54,640.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 26 year old single person was \$241.00. The tables reflect that Appellant could afford \$364.26. 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-2020 under the grounds for Appeal , “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable.”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$54,640.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$364.26 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$241.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant worked in a transportation business. The company he worked for did offer health insurance in 2020 but Appellant opted out of the health insurance because he did not know whether his business

would be deemed an essential business and he was concerned he would be laid off from his job. Appellant opted back in to his health insurance in July 2020.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

**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: PA20-222

**Appeal Decision** Appeal Approved

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** June 16, 2021

**Decision Date:** June 26, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated May 11, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 12, 2021

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant worked in a restaurant business. The company he worked for did offer health insurance in 2020 but Appellant had to work 33 hours a week to be eligible for such insurance. Appellant was laid off in March of 2020 and did not go back to work until 2021. Appellant tried to obtain health insurance but the cost was \$300.00 per month, which he asserted he could not afford. Appellant states that he is not eligible to apply for insurance until September 2021, when open enrollment occurs.
3. Appellant does not have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 under the grounds for Appeal under, "Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable" and "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities": and "During 2020, you purchased health insurance that didn't meet creditable 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"
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 2020. 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 2020.
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, because Appellant's income of \$66,592.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Middlesex County for a 27 year old single person was \$269.00. The tables reflect that Appellant could afford \$443.94. 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-2020 under the grounds for Appeal under , “Other. During 2020 other circumstances, such as applying the Affordability Tables in Schedule HC is inequitable” and “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities:” and “During 2020, you purchased health insurance that didn’t meet creditable 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”

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 2020, 150 percent of the FPL was \$18,3735.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$66,592.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay

\$443.94 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$269.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant worked in a restaurant business. The company he worked for did offer health insurance in 2020 but Appellant had to work 33 hours a week to be eligible for such insurance. Appellant was laid off in March of 2020 and did not go back to work until 2021. Appellant tried to obtain health insurance but the cost was \$300.00 per month, which he asserted he could not afford. Appellant states that he is not eligible to apply for insurance until September 2021, when open enrollment occurs.

On these facts, I find that Appellant has shown that he was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY ALLOWED**, and the 2020 penalty assessed is **PARTIALLY OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

**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: PA20-105

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 12, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated April 5, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty- seven years old and is single. She lives in Middlesex County, Massachusetts. Appellant works in the restaurant business.
2. Appellant was laid off from her job in 2020 due to Covid 19. Appellant made \$339.00 per week from unemployment plus some extra money from the Federal government. That aid ended in August of 2020. Appellant had to dip into savings to make ends meet. Appellant ended up eating only one meal a day in 2020 and lost a lot of weight. Appellant looked into the Health Connector but the cheapest plan cost \$130.00 a month, which Appellant could not afford.
3. Appellant did not have health insurance in 2020 and does not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$1,348.00, consisting of rent \$700.00, food \$518.00, bicycle repairs \$17.00, clothing \$50.00, entertainment \$20.00, toiletries \$30.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, 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 2020. 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 2020.
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 \$36,222.00 was less than \$37,470.00. The monthly premium for health insurance available on the private market in Middlesex County for a 26 year old single person was \$269.00. The tables reflect that Appellant could afford \$150.92 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.

Appellant had a job in 2020 but she was laid off. She is still laid off from her job. Appellant could not afford the health Connector and was forced to dip into her savings and only ate one meal a day at the end of 2021. had the health Connector for a brief period in 2019 but was dismissed from coverage and could not obtain the coverage even though she called the Health Connector.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$36,222.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$150.92 monthly for health insurance. See 2020 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 269.00 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 \$150.92 for health insurance coverage because of her income. Private insurance in the market place was \$269.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 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 2020 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 2020.

**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: PA20-106

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 12, 2021

**Decision Date:** May 28, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated April 5, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty years old and is single. She lives in Middlesex County, Massachusetts. Appellant works in the education business.
2. Appellant was laid off from her job in November 2019. Appellant searched for jobs as a teacher throughout 2020 and found a job in September 2020 but her health insurance did not start until December 2020. She was offered Cobra but that insurance cost \$820.00 per month.
3. Appellant did have health insurance in 2020 until December 2020 but does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$3,575.00, consisting of rent \$1,700.00, heat and electricity \$120.00, Internet and cable \$145.00, car insurance \$160.00, car gas \$150.00, car repairs \$100.00, food \$500.00, credit card \$800.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, 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 2020. 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 2020.
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 \$55,562.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Middlesex County for a 59 year old single person was \$432.00. The tables reflect that Appellant could afford \$370.41 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.

Appellant was laid off from her job in November 2019. Appellant searched for jobs as a teacher throughout 2020 and found a job in September 2020 but her health insurance did not start until December 2020. She was offered Cobra but that insurance cost \$820.00 per month.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$55,562.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$370.41 monthly for health insurance. See 2020 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 \$432.00 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 \$370.41 for health insurance coverage because of her income. Private insurance in the market place was \$432.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

**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: PA20-143

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** May 27, 2021

**Decision Date:** May 31, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on May 27, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated April 13, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 3, 2021
- Exhibit 4: Written Statement of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty- five years old and is single. She lives in Plymouth County, Massachusetts. Appellant works in the Personal care business.
2. Appellant works as a personal care assistant for her autistic brother. Her brother did not have the opportunity to go to his daycare facility in 2020 after Covid started. This placed a increased financial burden on his sister as she had to pay for additional diapers and supplies to care for him. In addition, her mother developed cancer but refused to go for treatment which increased the amount of work that Appellant had to do to care for her mother. Her employment did not offer health insurance and with the increased burden from caring for her brother and mother, she was not able to afford health insurance.
3. Appellant did not have health insurance in 2020 and does not have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$1,300.00, consisting of rent \$450.00, food \$400.00, cell phone \$60.00, transportation \$100.00, entertainment \$50.00, credit card \$40.00, toiletries \$100.00, diapers \$100.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 "During 2020, 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 2020. 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 2020.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$38,745.00 was less than \$50,730.00. The monthly premium for health insurance available on the private market in Plymouth County for a 24 year old single person with one dependent was \$696.00. The tables reflect that Appellant could afford \$200.18 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.

Appellant works as a personal care assistant for her autistic brother. Her brother did not have the opportunity to go to his daycare facility in 2020 after Covid started. This placed a increased financial burden on his sister as she had to pay for additional diapers and supplies to care for him. In addition, her mother developed cancer but refused to go for treatment which increased the amount of work that Appellant had to do to care for her mother. Her employment did not offer health insurance and with the increased burden from caring for her brother and mother, she was not able to afford health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$25,365.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$38,745.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$200.18 monthly for health insurance. See 2020 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 \$696.00 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 \$300.18 for health insurance coverage because of her income. Private insurance in the market place was \$696.00 per month, which is more than she could afford. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 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 2020 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 2020.

**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: PA20-220

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** June 16, 2021

**Decision Date:** June 22, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated May 11, 2021

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated March 11, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is sixty-two years old and is single. She lives in Hamden County, Massachusetts. Appellant works in the medical care business.
2. Appellant worked as a nurse but was laid off from her job after over twenty years, as her facility shut down permanently. Appellant was not offered Cobra health insurance until it was too late. Appellant applied to the Health Connector and sent in a deposit check of \$45.00 but was unable to obtain health insurance from the Health Connector.
3. Appellant stated that she did not make \$79,661.00 in 2020. Appellant may have received some vacation and sick pay and retirement benefits to augment her income in 2020.
4. The Appellant does not have health insurance in 2021.
5. The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . and “Other. During 2020 other circumstances, such as: applying the Affordability Tables or Schedule HC to you is inequitable”
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.
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 \$79,661.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Hamden County for a 61 year old single person was \$367.00. The tables reflect that Appellant could afford \$531.07 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.

Appellant worked as a nurse but was laid off from her job after over twenty years, as her facility shut down permanently. Appellant was not offered Cobra health insurance until it was too late. Appellant applied to the Health Connector and sent in a deposit check of \$45.00 but was unable to obtain health insurance from the Health Connector.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . and “Other. During 2020 other circumstances, such as: applying the Affordability Tables or Schedule HC to you is inequitable”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$79,661.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$531.07 monthly for health insurance. See 2020 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 \$367.00 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).

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 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 2020 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 2020.

**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: PA20-223

**Appeal Decision** Appeal Allowed

**Hearing Issue:** Appeal of the 2020 Tax Year Penalty

**Hearing Date:** June 16, 2021

**Decision Date:** June 22, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated May 11, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 9, 2021

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is twenty-nine years old and is single. She lives in Bristol County, Massachusetts. Appellant works in the animal care business.
2. Appellant was laid off in early March of 2020. Appellant lost her health insurance at that time. Appellant received unemployment but had major difficulty paying her bills. Appellant had to move out of her apartment due to the cost.
3. The Appellant does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .
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 2020. 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 2020.
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 \$44,131.00 was more than \$37,470.00. The monthly premium for health insurance available on the private market in Bristol County for a 28 year old single person was \$269.00. The tables reflect that Appellant could afford \$279.59 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.

Appellant was laid off in early March of 2020. Appellant lost her health insurance at that time. Appellant received unemployment but had major difficulty paying her bills. Appellant had to move out of her apartment due to the cost.

The Appellant did submit a Statement of Grounds for Appeal-2020 “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 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 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$44,139.00 in 2020, 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 2020 Massachusetts Schedule HC, Appellant could afford to pay \$279.59 monthly for health insurance. See 2020 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 \$269.00 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).

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2020. 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 2020 penalty assessed is **OVERTURNED**.

**PENALTY ASSESSED**

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 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 2020.

**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: PA19-1078

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** January 19, 2021

**Decision Date:** May 25, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellants appeared at the hearing, which was held by telephone, on January 19, 2021. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 8/27/20 Appeal (5 pages)
- Exhibit 3: 12/16/20 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants' filing status for 2019 was Married Filing Joint with no dependents. The Appellants' federal AGI in 2019 was \$111,558. The Appellants turned sixty-three years old and fifty-eight years old in 2019. The Appellants resided in Norfolk County in 2019. (Exhibit 1)
2. The Appellants appealed from the assessment of two twelve-month penalties on their 2019 income tax return, checking off on the appeal form: "During 2019, the expense of purchasing health insurance would have caused him a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
3. The Appellants had health insurance coverage in 2018 and in prior years through the Appellant/wife's employer, until the company was sold near the end of 2018 and she lost her job. (Appellants' testimony)
4. The Appellant/wife found a new job at the start of 2019. The job was part time, and her employer did not offer health insurance coverage to part-time employees. (Appellants' testimony)
5. The Appellant/husband's employer offered health insurance coverage in 2019 for a monthly premium of \$1,200. He did not enroll in the coverage because the Appellants decided that they could not afford to pay this much for coverage. (Appellants' testimony)

6. The Appellants never applied for health insurance coverage through the Health Connector in 2019. (Appellants' testimony)
7. The Appellants applied for coverage through the Health Connector for 2020 and had that coverage throughout 2020. (Appellants' testimony)
8. The Appellants looked for 2019 coverage through the private market but were unable to find any coverage that they could afford, except for health insurance coverage through an out-of-state provider. (Appellants' testimony)
9. The Appellants purchased health insurance coverage through the out-of-state provider without knowing that it did not meet MCC standards. (Appellants' testimony)
10. The Appellants were not aware that their health insurance had to meet MCC standards in 2019, because they had always had employer-sponsored coverage up until 2019. (Appellants' testimony)
11. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellants did not qualify for government-subsidized health insurance coverage, since their 2019 AGI income was more than \$49,800 for a family size of two.
12. According to Table 3, Affordability, based on their 2019 AGI and Married Filing Joint with no dependents tax filing status, the Appellants could have afforded to pay up to \$743/monthly for health insurance coverage in 2019.
13. According to Table 4, Premiums, based on their age and county of residence, the Appellants could have found health insurance coverage in the private market in 2019 for a monthly premium of \$836.

**ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, I credit the Appellants’ testimony that they made a good faith effort to obtain new health insurance coverage in 2019, after the Appellant/wife lost her job of many years and the health insurance coverage that had come with it, at the end of 2018. Although the Appellant/wife found new employment at the start of 2019, she did not qualify for her employer’s health insurance coverage since she was not a full-time employee. While the Appellant/husband was eligible for the health insurance coverage offered by his employer in 2019, the monthly premium of \$1,200 far exceeded the \$743/monthly the Appellants could afford to pay in 2019 for health insurance. Although health insurance coverage was available to the Appellants in the private market in 2019 at a much lower cost of \$836/monthly, this still exceeded by nearly \$100 the monthly premium amount that they could have afforded to pay in 2019.

Therefore, I conclude that the Appellants have established that affordable health insurance coverage was not available to them in 2019.

Accordingly, the Appellants’ two twelve-month penalties for 2019 shall be waived in full.

**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 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: PA19-1079

**Appeal Decision:** Appeal Approved

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

**Hearing Date:** January 19, 2021

**Decision Date:** May 26, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open for the Appellant to submit additional evidence. The Appellant submitted additional evidence on February 17, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 8/27/20 Appeal (5 pages)
- Exhibit 3: 12/16/20 Hearing Notice (2 pages)
- Exhibit 4: Four 2019 credit card/finance monthly statements (8 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$45,932. The Appellant turned thirty-two years old in 2019. The Appellant resided in Worcester County in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of an eight-month penalty on her 2019 income tax return, checking off on the appeal form that, "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2)
3. In 2018, just after the Appellant had lost her job, the Appellant applied for MassHealth coverage and had MassHealth coverage for the remainder of 2018. (Appellant's testimony)
4. On January 12, 2019, the Appellant started a new job. Her new employer did not offer health insurance coverage. (Appellant's testimony)

5. The Appellant did not have health insurance coverage from January 2019 through November 2019. (Exhibit 1)
6. In October 2019, the Appellant had a medical emergency that required her to seek urgent care immediately. (Appellant's testimony)
7. Soon after the medical emergency, the Appellant sought health insurance coverage for the remainder of the year and obtained coverage beginning in December 2019. (Appellant's testimony)
8. The Appellant had health insurance coverage during 2019 only in the month of December. (Appellant's testimony)
9. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage, since her 2019 AGI income was more than \$36,420 for a family size of one.
10. According to Table 3, Affordability, based on her 2019 AGI and Single tax filing status, the Appellant could have afforded to pay up to \$290/monthly for health insurance coverage in 2019.
11. According to Table 4, Premiums, based on her age and county of residence, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$279.
12. The Appellant could have afforded to pay \$279 for health insurance coverage in 2019. (Appellant's testimony)
13. The Appellant did not check the private market for health insurance coverage in 2019 because she did not know that she could do this. (Appellant's testimony)
14. The Appellant's 2019 monthly expenses for basic necessities included: rent, \$1,050; electric, \$140; cable, \$200; phone, \$115; car insurance, \$145; gas, \$150; and, minimum credit card payments (4), \$990, for a total of \$2,790/monthly and \$33,480 for the year.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, as the Appellant had a three-month grace period at the start of 2019 to obtain health insurance coverage and as she did not obtain coverage until December 2019, at issue are the eight months from April through November, when the Appellant failed to have coverage.

I do not find credible the Appellant's testimony that she applied for health insurance coverage through the Health Connector twice in 2019—in February or March and again in May—and that she had received a letter stating that health insurance coverage would cost her a monthly premium of over \$500. The Appellant submitted no documentary evidence to support any of this testimony, in response to an open-record request for such evidence. Rather, it appears from the record that the Appellant sought health insurance coverage in 2019 only after medical issues arose in October 2019. This coverage began in December 2019.

The Appellant has failed to establish that she would have suffered a serious deprivation of basic necessities had she purchased coverage in 2019. To the contrary, the Appellant had more than \$12,000 of income remaining after paying for basic necessities in 2019

As the Appellant made no effort to obtain health insurance coverage in 2019 until after she had to seek emergency care in October 2019, she is subject to a tax penalty for 2019. However, as the Appellant attempted to get insurance as soon as possible after her urgent care event in October and was unable to get it until December, the penalty for October and November shall be waived.

Accordingly, the Appellant's eight-month penalty for 2019 shall be reduced to a six-month penalty.

**PENALTY ASSESSED**

Number of Months Appealed:   8   Number of Months Assessed:   6  

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-1081

**Appeal Decision:** Appeal Denied

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

**Hearing Date:** January 19, 2021

**Decision Date:** May 27, 2021

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on January 19, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 9/4/20 Appeal (3 pages)
- Exhibit 3: Final Appeal Decisions, PA11-769, PA12-975, and PA13-1684
- Exhibit 4: 12/16/20 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$21,657. The Appellant turned fifty-one years old in 2019. The Appellant lived in Hampden County in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on his 2019 income tax return checking off "Other," and stating in full as the grounds for his appeal, "Desiring to see if there is legislature for my circumstances on a hearing appeal."
3. The Appellant last had health insurance coverage in 2000. (Appellant's testimony)
4. The Appellant does not like the American healthcare system because it does not offer the plant-based medicines offered in other countries, such as Germany. (Appellant's testimony)
5. The Appellant appealed and checked off "Other" on his appeal form just to get more time before he would have to pay the tax penalty for not having health insurance coverage in 2019. (Appellant's testimony)



6. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$52/monthly for health insurance coverage in 2019.
7. The Appellant could have afforded to pay \$52/monthly for health insurance coverage in 2019. (Appellant's testimony)

**ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, the Appellant acknowledged at hearing that he had no basis for his appeal except that he wanted to extend the time period before he would be required to pay the tax penalty for 2019.

Therefore, I conclude that the Appellant did not establish any grounds for a hardship appeal, under 956 CMR 6.08(1).

Accordingly, the Appellant's twelve-month penalty for 2019 shall not be waived or reduced.

**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