

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 19-400

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

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

**Hearing Date:** September 17, 2020

**Decision Date:** September 24, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on September 17, 2020. The hearing record consists of the testimony of Appellant, as well as the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Health Connector Hearing Notice (7/2020) (2 pages)
- Exhibit 3: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)<sup>1</sup>
- Exhibit 4: Statement of Grounds (5 pages)
- Exhibit 5: Copies of Form 1095-C from two employers (2 pages)
- Exhibit 6: Copy of Form 1095-C from employer (1 page)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 36 years old at the end of 2019.
2. During 2019, he lived in Suffolk County.
3. Appellant filed his 2019 Massachusetts taxes as married filing separately with no dependents.

---

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

4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$50,839. See Exhibit 2.
5. Appellant reported in the Schedule HC that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019. See Exhibit 2. The Schedule HC is the tax form used by Massachusetts residents to report information regarding compliance with the health insurance mandate.
6. However Appellant produced a copy of a Form 1095-C, which had been sent to him by one of his employers, showing that he was insured from August through December. See Exhibit 4, page 2. The Form 1095-C is a form required under federal law that employers provide to employees documenting offers of health insurance.
7. Appellant said he did not understand why there was a discrepancy between the information in the Form 1095C and that in the Schedule HC. He did say that his tax return had been prepared by someone out of state who may not have been familiar with the requirements of Massachusetts law and the Schedule HC, in particular. The Schedule HC is a form used only in Massachusetts to report information regarding health insurance.
8. Based on the foregoing, I find as fact that Appellant had health insurance from August to December in 2019 and was without insurance only from January through July.
9. In the early part of 2019, Appellant worked in temporary jobs that paid about \$16 an hour. At least one of these jobs involved a long commute out of state. During that time, Appellant experienced financial difficulties because his car frequently needed repairs, and his commuting costs were high. Additionally, Appellant was sending money to family members overseas.
10. Later in 2019, Appellant became a full-time employee at one company. At that job, he was able to obtain health insurance.
11. Appellant testified credibly that he was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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, I have found as fact that he was insured from August through December. Thus, he was without insurance for only seven months in 2019. Because he is entitled to a three-month gap without penalty, he is subject to a penalty for only four months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him. Appellant worked in a part-time job that paid an hourly wage during the first part of 2019, which was the period when he was without insurance. He did not begin full-time work until later in 2019, which corresponds with the time period that he became insured. Thus, I find that he did not have health insurance available through an employer during that time period.

Further, Appellant was not eligible for government subsidized insurance. The annual income reported by Appellant was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 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. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, using affordability standards set by the Health Connector board in accordance with state law, G.L. c. 111M, Appellant was deemed able to afford unsubsidized health insurance purchased on the individual market. A person like Appellant who filed taxes as married filing separately with no dependents and had an income of \$50,839 is deemed able to afford 8% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$4,067 a year or \$339 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 36 years old could have obtained health insurance for a premium of \$286 a month. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019.

Nonetheless, I determine that it would be inequitable to use Appellant's annualized income to assess his ability to afford health insurance during the early part of 2019. During that time, he was working on an hourly basis earning \$16 an hour. At that hourly rate, assuming a 40-hour-a-week job for 52 weeks, a person would earn only \$33,280. At that annual salary, a person would be deemed able to afford only 5% of income under state affordability standards; in this case, that would amount to \$139 a month, which would not be enough to afford unsubsidized insurance in the individual market. Thus during the time that he was uninsured, Appellant could not afford to purchase unsubsidized insurance.

Based on the foregoing, I conclude that Appellant did not have an affordable option for health insurance during the period that he was uninsured. Even if he did, I would conclude that he has stated sufficient grounds to obtain a waiver of the penalty. See 956 CMR § 6.08. Appellant has established that, given his financial situation, obtaining health insurance during the period when he was uninsured would have created a significant financial hardship, which constitutes grounds for a waiver. 956 CMR § 6.08(1)(e). During that period, his income was variable. He had the additional expense of a long commute, aggravated by the need to maintain an old vehicle, which was needed to get to work. Further, he was sending support to family members overseas, which further drained his available income. Moreover, Appellant did become insured when he was offered insurance through a full-time job and was insured at the time of the hearing; this further demonstrates that his period of uninsurance was a temporary

condition caused by the nature of his work at the time. Given all these circumstances, I exercise my discretion to waive the penalty against him for 2019.

**PENALTY ASSESSED**

Number of Months Appealed : 12\_\_\_\_ Number of Months Assessed: \_\_0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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 19-498

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

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

**Hearing Date:** September 9, 2020

**Decision Date:** September 14, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (10 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 27 years old at the end of 2019.
2. During 2019, he lived in Plymouth County.
3. Appellant filed his 2019 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 2019 of \$41,677.
5. Appellant stated in the Schedule HC and confirmed at the hearing that he had health insurance meeting minimum creditable (MCC) standards from January through April of 2019. Appellant's

---

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

Schedule HC stated that he did not have insurance for the remaining eight months of the year. See Exhibit 2. However, Appellant stated at the hearing that he thought he had insurance in May.

6. Appellant was employed at a job that offered him health insurance during the first months of 2019. He was enrolled in that insurance.
7. In May, he left the job for a new position that was in his field. He was hired as a temporary employee but was told that after three months he would become permanent and become eligible for health insurance. As a result, he did not seek health insurance in the private market but waited until he became eligible for the employer-sponsored insurance.
8. However, not long after he started working for that employer, the company was sold and he was told that he would be let go. He lost his job in September.
9. In October 2019, he found a new job. Again he was told that he would be eligible for health insurance in three months.
10. However, shortly after Thanksgiving of 2019, his employer gave up its offices in Massachusetts and he was let go once more.
11. He searched for a new job and eventually found one early in 2020. In that job, he was eligible for health insurance, which he took. He stated that he was insured at the time of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 was without insurance for eight months in 2019. Appellant claims, despite the evidence of the Schedule HC that he filed, that he was insured in May, which would have meant that he was without insurance for seven months. However, I find, based on the evidence of the Schedule HC, which would in turn have been based on the 1099 provided by his insurer, that he was not insured in May and thus was without insurance for eight months. (As demonstrated in the analysis below, this finding does not affect the ultimate decision in this case.) Because he was entitled to a three-month gap without penalty, he has only been assessed a penalty for five months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him.

Appellant did not have employer-sponsored insurance available to him during the months that he was uninsured. He testified credibly that starting in May, he began a new job and was not immediately eligible for health insurance through that employment. It is common for new employees to have a probationary period of up to three months before they are eligible for health insurance benefits. Unfortunately for Appellant, he lost that job before he became benefits-eligible. The same thing happened to him in the next job that he took in October 2019. Then in December 2019, he was unemployed again. As a result of these misfortunes, he was not eligible for employer-sponsored insurance at any point during the period in 2019 when he was uninsured.

Appellant was not eligible for Connector Care, which is government subsidized insurance. His annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have obtained affordable unsubsidized insurance in the individual market using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c 111M. A person like Appellant who is in a household of one and has an income of \$41,677 is deemed able to afford 7.45% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$3,105 a year or \$259 a month. In 2019, an individual like Appellant who lived in Plymouth County and was 27 years old could have obtained health insurance for a premium of \$257 a month. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019, although he was only marginally above the eligibility threshold.

Because Appellant could have obtained affordable health insurance in 2019 but didn't, I must determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). I determine that he has made that showing. As just noted, Appellant was only marginally able to afford health insurance under state standards. Moreover, the period when he was uninsured was also a period when he was experiencing financial insecurity because he changed jobs and then lost them twice in quick succession. Given those circumstances, and given the fact that for most of that period Appellant reasonably believed that he would become eligible for employer-sponsored insurance within a short period of time, it was reasonable for him not to purchase health insurance in the private market. Accordingly, I exercise my discretion to waive the penalty assessed against him in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed : 5\_\_\_\_\_      Number of Months Assessed: \_\_0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 19-499

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

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

**Hearing Date:** September 9, 2020

**Decision Date:** September 14, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

Exhibit 1:	Health Connector Hearing Notice (2 pages)	
Exhibit 2:	Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page) <sup>1</sup>	
Exhibit 3:	Attachments to Statement of Grounds	20
Exhibit 4:	Statement of Grounds with attachments (including handwritten statement)	15

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 60 years old at the end of 2019.
2. During 2019, she lived in Hampden County.
3. Appellant filed her 2019 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 2019 of \$40,143.

---

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

5. Appellant stated in the Schedule HC and confirmed at the hearing that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.
6. During 2019, Appellant worked at two jobs, each of which was part-time and seasonal. She was not offered health insurance through either of those jobs.
7. Because of the nature of her employment, her income was uncertain.
8. Appellant experienced a number of financial hardships during 2019. She was in default on her mortgage and consequently received a foreclosure notice. She was only able to avoid foreclosure by borrowing money and accepting gifts. Additionally, she had a utility shut off notice during the course of the year. See Exhibits 3 and 4.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable insurance available to her.

Appellant did not have employer-sponsored insurance available to her during 2019, because she worked at temporary, part-time jobs that were seasonal. Neither of these jobs offered her employer sponsored insurance.

Further, Appellant was not eligible for Connector Care, which is government subsidized insurance. Her annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellant could not have afforded unsubsidized insurance in the individual market using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c. 111M. A person like Appellant who is in a household of one and has an income of \$40,143 is deemed able to afford 7.45% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$2,990 a year or \$249 a month. In 2019, an individual like Appellant who lived in Hampden County and was 60 years old would have had to pay at least \$418 a month for health insurance. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because Appellant could not have obtained affordable health insurance in 2019, she was not subject to the individual mandate penalty under M.G.L. c. 111M. Accordingly, I am not required to determine whether she has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). Instead, I conclude that the penalty assessed against her should be waived 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 19-500

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

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

**Hearing Date:** September 9, 2020

**Decision Date:** September 14, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC (1 page)<sup>1</sup>
- Exhibit 3: Statement of Grounds with attachments (including handwritten statement) 5

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 20 years old at the end of 2019.
2. During 2019, she lived in Suffolk County.
3. Appellant and Husband were married in May of 2019. Appellant filed her 2019 Massachusetts taxes along with Husband as married filing jointly with no dependents.

---

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

4. Appellant and Husband reported on their Massachusetts tax return, and confirmed at the hearing, that they had adjusted gross income in 2019 of \$84,425. Of that, between \$50,000 and \$55,000 was earned by Husband, and the balance by Appellant.
5. Appellant stated in the Schedule HC and confirmed at the hearing that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019. Husband testified that he did have health insurance, which he had obtained through his employment.
6. During 2019, Appellant worked as a server at a restaurant. She was an hourly employee with variable hours. She was not offered health insurance through that job.
7. At some time in the past, Appellant had been covered by MassHealth, which is the state's Medicaid program. MassHealth provides health coverage for low-income residents.
8. After marrying Husband, Appellant would not have been eligible for government-subsidized insurance because, for eligibility determination purposes, Husband's income would have been considered as well as her own, and that combined income was too high to qualify.
9. Appellant believed that she was covered by MassHealth prior to her marriage in May because she had been living at home with her parents who were also covered by MassHealth. However, she did not receive a 1099 form confirming such coverage and did not report that she was covered when she filed her Schedule HC.
10. After they were married, Husband inquired about adding Appellant to his employer-sponsored insurance but was told that he would have to wait until that insurance program's annual open enrollment period, which was at the end of the calendar year. Consequently, Appellant was never added to the insurance policy in 2019.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable insurance available to her.

Appellant did not have employer-sponsored insurance available to her during 2019, because she worked at a temporary, part-time job that did not offer insurance benefits.

Further, Appellant was not eligible for government subsidized insurance, at least after her marriage. The annual income reported by Appellant and Husband in 2019, was above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not

eligible for Connector Care. See 956 CMR 12.04 (Connector Care eligibility requirements.) The eligibility threshold for MassHealth is even lower, so clearly Appellant would not have qualified after her marriage.

However, Appellant could have afforded unsubsidized insurance in the individual market using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c 111M. A person like Appellant who is married filing jointly with no dependents and had an income of \$84,425 is deemed able to afford 8% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$6,6754 a year or \$562 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 20 years old could have obtained health insurance for a premium of \$257 a month. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019.

Nonetheless, the use of these affordability standards in this case is complicated by the facts that most of the couple's joint income was earned by the Husband, and the couple did not marry until May. Thus, for at least the first five months of the year, Appellant's annual income was considerably less than \$84,425. According to rough estimates provided by Appellant and Husband at the hearing, she was actually making closer to \$30,000 a year. At that income level, she would *not* have been able to afford unsubsidized insurance in the private market, because she would be deemed able to afford only 4.2% of income or \$105 a month for insurance.

Thus, Appellant's situation requires two separate analyses—first, for the period before her marriage, and then for the period after her marriage. For the period before her marriage, she would have been eligible for government-subsidized insurance. In fact, Appellant and Husband believed that she was insured through government-subsidized insurance during that period of time. They did not have confirming evidence, but it was possible that such confirmation had been sent to Appellant's premarital home address and thus was not available to them at the time they filed their taxes. In any event, I find that Appellant believed in good faith that she was covered during this period of time and that she had no other alternatives to government-subsidized insurance.

As for the period after her marriage, she could have purchase unsubsidized insurance. However that would have been a considerable expense, particularly given the fact that her income was variable. Further, the couple expected that Appellant would be added to Husband's insurance at the end of the calendar year at his open enrollment period. Additionally, Husband stated that the couple had not realized that Appellant would no longer be eligible for government-subsidized insurance after the marriage because Husband's income would be taken into account for eligibility purposes. Again, I find that Appellant believed in good faith that she was covered during this period of time.

Given these circumstances, I exercise my discretion to waive the penalty assessed against Appellant for 2019. Unfortunately, because of the disruptions caused by the Covid-19 virus, both Appellant and Husband have experienced negative impacts to their employment, and Husband testified that he is no longer eligible for employer-sponsored insurance. The couple were advised to investigate the possibility of applying for insurance through the Health Connector at [www.mahealthconnector.org](http://www.mahealthconnector.org) and

determining if, given their projected income for 2019, they would be eligible for financial assistance in obtaining that 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.

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 19-502

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

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

**Hearing Date:** September 9, 2020

**Decision Date:** September 14, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds with attachments  
(including handwritten statement) 5

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 20 years old at the end of 2019.
2. During 2019, he lived in Norfolk County.
3. Appellant filed his 2019 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 2019 of \$18,738. 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 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant stated in the Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.
6. During 2019, Appellant worked at two part-time jobs in the food service industry. He was not offered health insurance through either job.
7. At one point prior to 2018, Appellant had been in school and had been covered through student health insurance. Prior to that, he had been covered on a parent's health insurance. However, in 2019, he was no longer in school and his parent was not working, so was not able to cover him.
8. During 2019, Appellant stated that he started to apply for health insurance through the Massachusetts Health Connector. However, because of various disruptions in his home life at the time, he did not complete the application.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him.

Appellant did not have employer-sponsored insurance available during 2019, because he worked at two temporary, part-time jobs, neither of which offered him insurance. Further, Appellant would not have been able to afford unsubsidized insurance on the individual market, using state affordability standards set by the Health Connector board in accordance with state law, M.G.L. c. 111M. A person like Appellant who is single with no dependents and had an income of \$18,738 is deemed able to afford only 2.9% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$543 a year or \$45 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 20 years old would have had to pay at least \$257 a month in premium for health insurance. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

However, Appellant was eligible for government subsidized insurance. The annual income reported by Appellant was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, provided they meet the other eligibility criteria of citizenship, residence in Massachusetts, and lack of access to employer-sponsored insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Appellant however did not obtain government subsidized insurance because he did not complete the application.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds to waive the individual mandate penalty. See 956 CMR § 6.08. Appellant's income in 2019 was low. Also, it was uncertain because he worked two part-time jobs and was paid by the hour; one of the jobs was seasonal. His financial situation was complicated by the fact that he was helping to care for a disabled parent. Further, Appellant testified credibly that, during the course of 2020, he had returned to the application and had completed it and was awaiting an eligibility determination. Given all these circumstances, I exercise my discretion to waive the penalty against him for 2019.

Even though I am waiving the penalty for 2019, Appellant remains subject to the ongoing mandate that he obtain health insurance or face a penalty. Appellant was urged to follow up on the application that he had submitted for health insurance through the Health Connector by calling customer service and/or checking his on-line application in order to ensure that he obtains coverage.

**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 19-583

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

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

**Hearing Date:** September 17, 2020

**Decision Date:** September 24, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on September 17, 2020. The hearing record consists of the testimony of Appellant, as well as the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds with attachments (including handwritten statement) (11 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 28 years old at the end of 2019.
2. At the start of 2019, she was living in Sweden with her partner. As of May 2019, she returned to the United States and lived in Norfolk County. See Exhibit 3 (proof of travel dates).
3. Appellant filed her 2019 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 2019 of \$26,897. 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 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant stated in the Schedule HC and confirmed at the hearing that she did not have health insurance meeting minimum creditable (MCC) standards from January through July of 2019, but she did have MCC-compliant insurance from August through December.
6. While she was in Sweden, Appellant had a form of travel insurance that did not meet MCC standards.
7. Shortly after Appellant returned to the United States in May 2019, she obtained a job. That job offered her insurance after a three-month probationary period. Thus, she was insured starting in August.
8. Appellant was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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, she was without insurance for only seven months in 2019. Because she is entitled to a three-month gap without penalty, she has only been assessed a penalty for four months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether the individual mandate applied to her during the months when she was without insurance. As stated above, the individual mandate applies to individuals who are “residents” of Massachusetts. See G.L. c. 111M, § 2. However, in this case, Appellant did not reside in Massachusetts for a significant part of 2019. During that time, she lived in Sweden. She could not have accessed health services in the United States that would have been covered by an insurance policy purchased in this country. Therefore, I conclude that she was excused from the obligation to obtain health insurance during this period of non-residence.

Having reached that conclusion, I only consider the period after May, when she returned to the United States. During the three months of May through July, Appellant was uninsured because she had just started a new job in the United States and was in a probationary period before her health benefits took effect. This three-month period corresponds with the three-month grace period discussed above. She should not be subject to a penalty for that time period.

Accordingly, during the seven months when Appellant was without insurance in 2019, she was either a non-resident and not subject to the individual mandate, or she was in a three-month grace period and so not subject to a penalty. Because I have reached this conclusion, I do not have to determine whether she had affordable insurance available to her during the period when she was uninsured or whether she has stated a financial hardship sufficient to constitute grounds for waiving the penalty under 956 CMR 6.08(1). Instead, I will waive the penalty assessed against her in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed : 4\_\_\_\_ Number of Months Assessed: \_\_0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA 19-586

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

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

**Hearing Date:** September 17, 2020

**Decision Date:** September 24, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on September 17, 2020. The hearing record consists of the testimony of Appellant, as well as the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds with attachments) (5 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 52 years old at the end of 2019.
2. In 2019, she lived in Middlesex County in Massachusetts.
3. Appellant filed her 2019 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 2019 of \$62,590. See Exhibit 2.
5. Appellant stated in her Schedule HC that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019. See Exhibit 2. The Schedule HC is the form on

---

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

which Massachusetts residents are required to report information regarding health insurance in order to comply with the state's health insurance mandate.

6. However, at the hearing, Appellant testified that she was insured during the entire year. She produced two separate forms, one a 1099-HC from one employer and another a Form 1095-B from another employer. See Exhibit 3. The 1099-HC is a form required by Massachusetts law for employers to provide to employees demonstrating whether they had insurance coverage. Similarly, the Form 1095-B is required by federal law for employers to document offers of health insurance to employees.
7. Appellant worked throughout a year for an employer that offered health insurance. She was enrolled in that health insurance at the start of the year, and remained enrolled through August. That coverage was reflected in the 1099-HC, which showed that she was covered through that insurance plan from the months of January through August.
8. Effective September, Appellant began to obtain insurance through her fiancé's employer-sponsored health insurance. That coverage was reflected in the Form 1095-B, which showed coverage in September through December.
9. Appellant believes that when she prepared her Massachusetts tax return, including the Schedule HC, she had problems with the tax reporting software, which caused to file a Schedule HC erroneously reporting that she did not have health insurance. She didn't realize she had done that until after she had filed and was notified about the potential penalty being assessed against her.
10. Appellant was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

In this case, I have found as fact that, despite the report on her Schedule HC that she was uninsured in 2019, Appellant was in fact insured in MCC-compliant insurance for the entire year. She testified credibly to that fact and produced corroborating documentary evidence. Accordingly, I conclude that the individual mandate tax penalty was assessed against her due to the error she made in filing her Schedule HC.

Because I have reached that conclusion, I do not need to determine whether Appellant had health insurance affordable to her under state affordability standards or whether, if she had such affordable insurance, she has established grounds for waiving the penalty due to a financial hardship, as set forth under 956 CMR § 6.08. Instead, I will waive the penalty assessed against her 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: PA19-587

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

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

**Hearing Date:** September 17, 2020

**Decision Date:** September 24, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant and her Husband both appeared at the hearing, which was held by telephone, on September 17, 2020. The hearing record consists of the testimony of both Appellant and Husband, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachments) (37 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 37 at the end of 2019.
2. During 2019, Appellant and Husband lived in Berkshire County.
3. Appellant filed her 2019 Massachusetts taxes with Husband as married filing jointly with no dependents.
4. Appellant and Husband reported on their Massachusetts tax return, and confirmed at the hearing, that they had adjusted gross income in 2019 of \$97,434. 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 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant stated in the Schedule HC and confirmed at the hearing that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.
6. Appellant and Husband testified that Husband had insurance meeting MCC standards for the entire year. He obtained that insurance through his job.
7. At the start of 2019, Appellant, who is a physician, was in the United States on a J-1 visa. The J-1 visa is an immigration category for visitors to the United States who are approved to participate in a work-and-study based programs in this country. This category includes physicians from other countries who are permitted to obtain medical education or training in the United States. See <https://j1visa.state.gov/basics/>.
8. Husband on the other hand was a United States citizen working full-time in this country.
9. Appellant's J-1 visa expired at the start of 2019, which meant that she would be required to leave the United States. However, she applied for a hardship waiver so that she could remain with Husband, who had a medical condition requiring her care. The waiver was granted in August.
10. At that point, she applied for permission to work in the United States. That permission was granted in January 2020. She then obtained a medical residency outside of Massachusetts. She and Husband relocated to that other state in January and both have health insurance there.
11. Appellant and Husband married during the course of 2019.
12. At some point after the marriage, Husband attempted to add Appellant to his employment-based insurance. However, he was told that he had missed the time within which he could do that, and would have to wait for the next open enrollment period in order to enroll her.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether she had affordable health insurance available to her in 2019.

Appellant did not have insurance available through employment. Throughout 2019, she was unable to work in the United States because of her immigration status. She was not married for the first part of 2019, and so could not obtain insurance through her spouse. Even after she married and could have been added to her husband's plan, Husband missed the short window within which he could add her to his plan. As a consequence, Appellant did not have employer-sponsored insurance available at all in 2019.

Further, Appellant was not eligible for government-subsidized insurance. In Massachusetts, Connector Care is the program of government-subsidized insurance. In order to be eligible for Connector Care, a person must be eligible to receive premium tax credits offered by the federal government under the Affordable Care Act (ACA). 956 CMR 12.04. Under the ACA, an individual is not eligible for premium tax credits if that individual is neither a citizen nor a legal permanent resident of the United States. 26 U.S.C. § 36B(e). The term “legal permanent resident” includes a number of visa statuses; however, a J-1 visa is not among them. See <https://www.healthcare.gov/immigrants/immigration-status/>. Accordingly Appellant was not eligible for government-subsidized insurance during 2019 because she was in a J-1 status.

Finally, Appellant could not have purchased unsubsidized insurance through the Health Connector exchange, which is the principal option for purchasing health insurance in the individual market in Massachusetts. Under the ACA, individuals may shop in a health insurance exchange such as the Health Connector only if they are citizens or legal permanent residents. See 42 U.S.C. § 18032(f)(3). Again, as stated above, Appellant was not considered a “legal permanent resident” in the United States in 2019, because of her visa status. She thus would not have been permitted to purchase insurance on the Health Connector exchange, which would, as a practical matter, prevent her from obtaining unsubsidized insurance in the non-group market.

Because I have determined that Appellant did not have an affordable health insurance option available to her in 2019, I conclude that she should not be subject to the individual mandate penalty. Thus, I am not required to further consider whether she has stated grounds for waiving that penalty on the basis of a financial hardship under 956 CMR 6.08. Instead, I am waiving the tax penalty in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed : 12\_\_\_\_ Number of Months Assessed: \_\_0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-616

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

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

**Hearing Date:** September 25, 2020

**Decision Date:** September 28, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on September 24, 2020. The hearing record consists of the testimony of both Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (5 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 32 at the end of 2019.
2. During 2019, Appellant lived in Middlesex County.
3. Appellant filed his 2019 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 2019 of \$47,625. 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 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant stated in the Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable (MCC) standards from January through August 2019, but he did have MCC-compliant insurance from September through December.
6. At the start of 2019, Appellant was looking for a full-time position in his field. During that time, he was working at various temporary positions. He stated that his income during that period was about \$200 a week, and never got above \$1,000 a month.
7. He stated that during that period of time, he qualified for food stamps because of his low income.
8. In late May 2019, Appellant obtained a full-time job, which offered health insurance. He qualified for that health insurance after a three-month probationary period. He completed that probationary period in September 2019, and became enrolled in health insurance at that time.
9. He was insured as of the date of the hearing.

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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 was without insurance for eight months in 2019. Because he was entitled to a three-month gap without penalty, he has only been assessed a penalty for five months.

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether he had affordable insurance available to him.

Appellant did not have employer-sponsored insurance available to him during the months that he was uninsured. He testified credibly that from January through May, he worked in various temporary jobs that did not offer him health insurance. Then, starting in late May, he began a new position, where he had to work for a three-month probationary period before he qualified for health insurance. The first time in 2019 that he was eligible for employer-sponsored insurance was in September, when he became enrolled.

Additionally, Appellant did not qualify for government subsidized insurance. Although his income during the period from January through May was low, his ultimate annual income in 2019 was \$47,625. That

amount is above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 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. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded unsubsidized insurance in the individual market using affordability standards set by the Health Connector board in accordance with state law, M.G.L. c 111M. A person like Appellant who is in a household of one and has an income of \$47,625 is deemed able to afford 7.6% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$3,619 a year or \$301 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 32 years old could have obtained health insurance for a premium of \$279 a month. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, based on his annual income, Appellant was deemed able to afford unsubsidized insurance in 2019.

However, I conclude that, in this case, it would inequitable to apply affordability standards based on Appellant's annual income. This is so because for the first five months of the year, Appellant's income was significantly below the amount he earned in the latter part of the year when he was working full-time. During the first five months of the year, he worked at temporary positions and was earning about \$200 a week or at most \$1,000 a month. Annualized, that income amounted to only about \$12,000 a year. At that income, under state standards, insurance is deemed unaffordable. Accordingly, I conclude that Appellant could not have afforded unsubsidized insurance on the individual market during the first five months that he was uninsured.

After May, Appellant was working at a higher income. At that point, he was in a three-month probationary period waiting to become eligible for employment-based insurance. That three-month period corresponds to the three-month grace period discussed above. Therefore, I will not consider this period in determining whether Appellant was subject to the individual mandate penalty.

Based on the foregoing analysis, I conclude that Appellant did not have the ability to afford health insurance during the time that he was uninsured. Thus, he was not subject to the individual mandate penalty. Even if I concluded otherwise, I would still have to determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). I determine that he has made that showing. During the period that he was uninsured, Appellant's financial situation was very precarious. He was forced to seek food stamps. Given these facts, I conclude that purchasing health insurance would have been a hardship. Accordingly, I exercise my discretion to waive the penalty assessed against him in its entirety.

**PENALTY ASSESSED**

Number of Months Appealed : 5\_\_\_\_ Number of Months Assessed: \_\_0

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-526

**Appeal Decision** Appeal Approved

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

**Hearing Date:** September 10, 2020

**Decision Date:** September 29, 2020

## **AUTHORITY**

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

## **JURISDICTION**

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

## **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 10, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open for the Appellant to provide proof of insurance through his health insurance card.

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

- Exhibit 1: Notice of Hearing dated August 3, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 13 2020
- Exhibit 4: Open Record Document, health insurance card

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant work in a government agency.
3. Appellant had health insurance through his mother in 2018 until he turned 26 in October, 2018. He signed up for health insurance through his agency. However, the insurance plan he picked, Harvard did not cover his particular area. He picked another plan and received a health card. He did not receive a payment coupon and thought it was being deducted from his paycheck
4. Appellant provided his health insurance card through his open record documents. Appellant did not find out he did not have health insurance until November 2019 when he went to his doctor. Appellant obtained health insurance through his girlfriend's health insurance for December 2019.
5. Appellant does have health insurance in 2020.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " Other. During 2019 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example because of family size) that you were unable to obtain government-subsidized insurance even though your income qualified you, or you didn't reside in Massachusetts during your period of uninsurance.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because

Appellant's income of \$54,057.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Bristol County for a 26 year old single person was \$257.00. The tables reflect that Appellant could afford \$360.38. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " Other. During 2019 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example because of family size) that you were unable to obtain government-subsidized insurance even though your income qualified you, or you didn't reside in Massachusetts during your period of uninsurance.

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

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

Appellant reported a federal AGI of \$54,057.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$360.38 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *id.* at Table 4.

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

Appellant had health insurance through his mother in 2018 until he turned 26 in October. He signed up for health insurance through his agency. However, the insurance plan he picked, Harvard did not cover his particular area. He picked another plan and received a health card. He did not receive a payment coupon and thought it was being deducted from his paycheck. He did not receive notice that he did not have health insurance until November 2019, at which time he immediately obtained health insurance through his girlfriend.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-218

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** June 24, 2020

**Decision Date:** August 24, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants appeared at the hearing, which was held by telephone, on June 24 2020. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-26-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-2-20) (with letter and documents) (7 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 35 and 40 during 2019, from Middlesex County, filed married filing jointly on the tax return with a family size of 4) (Exhibit 2).
2. Appellants did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$115,156.00 (Exhibit 2).
4. Appellants did not have health insurance available through employers. One of Appellants' pay is based on commissions and it is uncertain how much income will be made during the year. (Appellants' testimony, Exhibit 3).
5. Appellants received shutoff notices during 2019. (Appellants' testimony, Exhibit 3).

6. Appellants' expenses for food, shelter, clothing, used a significant amount of the income (Appellants' Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$6,000.00 per month averaged out, or \$72,000.00 for the year (Appellants' Testimony).
7. The Appellants now has health insurance through the Health Connector (Appellants' 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 \$768.00 for family coverage. According to Table 3, Appellants were deemed to afford \$767.00.
10. Private insurance was not affordable for the Appellants in 2019 (Schedule HC for 2019).
11. 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).
12. Appellants claimed that they should be granted a waiver based on the grounds that they received shutoff notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, 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; or 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, but Appellants did receive a shut-off notice for basic utilities. (Appellants' 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.

Appellants did not have health insurance for 2019. They each 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 Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the 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 \$115,156.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$767.00 per month; according to Table 4, Appellants, who were 35 and 40 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 4, would have had to pay \$768.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they received shutoff notices, and that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants' expenses for food, shelter, clothing, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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: 12/12 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: PA19-219

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** June 24, 2020

**Decision Date:** August 25, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellants appeared at the hearing, which was held by telephone, on June 24 2020. The hearing record consists of the Appellants' testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-26-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-1-20) (with document) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 33 and 34 during 2019, from Hampden County, filed married filing jointly on the tax return with a family size of 5. (Exhibit 2).
2. Appellants did have health insurance for February through April for one of them and February through May for the other of them, but not for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$78,015.00 (Exhibit 2).
4. Appellants received shutoff notices during 2019. (Appellants' testimony, Exhibit 3).
5. Appellants' expenses for food, shelter, clothing, used a significant amount of the income (Appellants' Testimony). The monthly expenses for food, shelter, clothing, and other necessities,

totaled approximately \$5,000.00 per month averaged out, or \$60,000.00 for the year (Appellants' Testimony).

6. The Appellants now have health insurance through one of their employers (Appellants' 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 \$713.00 for family coverage. According to Table 3, Appellants were deemed to afford \$494.00.
9. Private insurance was not affordable for the Appellants in 2019 (Schedule HC for 2019).
10. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore would may 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 they received shutoff notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, 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; or 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, but Appellants did receive a shut-off notice for basic utilities. (Appellants' 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.

Appellants did have health insurance for February through April for one of them and February through May for the other of them, but not for the remaining months of 2019. They have been assessed a tax penalty for five months and four months respectively. Appellants appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the 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 \$78,015.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$494.00 per month; according to Table 4, Appellants, who were 33 and 34 years old in 2019, from Hampden County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 5, would have had to pay \$713.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they received shutoff notices, and that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants' expenses for food, shelter, clothing, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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: 5/4      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: PA19-220

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** June 24, 2020

**Decision Date:** August 25, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on June 10, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-26-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-2-20) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 27 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant previously had health insurance through the employer, but no longer had it available in 2019. (Appellant testimony).
4. Appellant now has health insurance.
5. Appellant's Federal Adjusted Gross Income for 2019 was \$36,191.00 (Exhibit 2).
6. Appellant helped with paying bills for a sibling who had experienced a death of a family member.

7. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$1,800.00 per month averaged out, or \$21,600.00 for the year (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$150.00.
10. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
11. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$36,191.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$150.00 per month; according to Table 4, Appellant, who was 27 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:      Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-247

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 29, 2020

**Decision Date:** September 10, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 29 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Notices of Hearing (6-10-20) and (7-16-20) (4 pages);

Exhibit 2: Information from Schedule HC TY 2019 (1 page); and

Exhibit 3: Statement of Grounds for Appeal (3-9-20) (with letter and documents) (61 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 41 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance January through June of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$50,926.00 (Exhibit 2).
4. Appellant had health insurance through the ex-spouse from January through June, and then lost the insurance and was not able to obtain health insurance that the Appellant felt was affordable. (Appellant's testimony, Exhibit 3).

5. Appellant's income was increased in 2019 due to a withdrawal from a retirement account through a Qualified Domestic Relations Order pursuant to the divorce. The net proceeds were used to pay attorney's fees, vehicle expenses and significant home repairs.
6. Appellant's expenses for food, shelter, clothing, and other necessities, as well as the items listed in paragraph 5 used all of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, and other necessities, totaled approximately \$6,272.00 per month averaged out, or \$75,264.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$306.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$333.00.
9. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Appellant did have health insurance for the months of January through June of 2019 through the ex-spouse, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$50,926.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$333.00 per month; according to Table 4, Appellant, who was 41 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$306.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, home repair, vehicle expenses, attorney's fees, and other necessities used all of the income. For these reasons, the waiver of the penalty is approved.

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

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:     Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-248

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 29, 2020

**Decision Date:** September 10, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

One of Appellants appeared at the hearing, which was held by telephone, on July 29 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Notices of Hearings (6-10-20) and (7-16-20) (4 pages);

Exhibit 2: Information from Schedule HC TY 2019 (1 page); and

Exhibit 3: Statement of Grounds for Appeal (3-5-20) (with letter and documents) (10 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 53 and 53 during 2019, from Middlesex County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellants did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$45,877.00 (Exhibit 2).
4. Appellants' expenses for food, shelter, clothing, used all of the income (Appellants' Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$4,422.00 per month averaged out, or \$53,064.00 for the year. (Appellants' Testimony, Exhibit 3).

5. The Appellants now have health insurance through the Health Connector (Appellants' Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellants could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$812.00 for family coverage. According to Table 3, Appellants were deemed to afford \$281.00.
8. Private insurance was not affordable for the Appellants in 2019. (Schedule HC for 2019).
9. Appellants' AGI was under 300% of the Federal Poverty Level, and Appellants therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellants claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
11. 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; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. 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. (Appellants' 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.

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

we must determine if such insurance was, in fact, not affordable to the 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 \$45,877.00 were deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$281.00 per month; according to Table 4, Appellants, who were both 53 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$812.00 for family coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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, and other necessities used all of the income during 2019. 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: 12/12 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: PA19-249

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 29, 2020

**Decision Date:** September 10, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 29 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Notices of Hearing (6-10-20) and (7-16-20) (4 pages);

Exhibit 2: Information from Schedule HC TY 2019 (1 page); and

Exhibit 3: Statement of Grounds for Appeal (3-2-20) (with letter and documents) (10 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 30 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance January through March, and for December of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$42,373.00 (Exhibit 2).
4. Appellant had health insurance through the Health Connector from January through March, and then began work as a temporary employee at a company, and thought they would be eligible for health insurance through that company as a permanent employee within a short time. However,

that did not happen and when Appellant inquired about obtaining health insurance either through the company or the temporary agency, Appellant was informed they were not eligible. Appellant then attempted to obtain health insurance through the Health Connector but did not believe it was affordable. Appellant then ended up leaving the job and returning to being a waitperson so that they could obtain health insurance at an affordable rate. (Appellant's testimony, Exhibit 3).

5. Appellant now has health insurance through the Health Connector as of December 2019, and continuing for 2020.
6. Appellant's expenses for food, shelter, clothing, and other necessities, used a significant portion of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$2,854.00 per month averaged out, or \$34,248.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$263.00.
9. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Appellant did have health insurance for the months of January through March and for December of 2019 through the Health Connector, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for five months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$42,373.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$263.00 per month; according to Table 4, Appellant, who was 30 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, vehicle expenses, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

#### **PENALTY ASSESSED**

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

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

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

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

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: PA19-250

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 29, 2020

**Decision Date:** September 21 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 29, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (6-10-20) and (7-16-20) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-24-20) (with letter) (4 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 43 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance January through March, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$49,084.00 (Exhibit 2).
4. Appellant had health insurance through the employer from January through March, and then left the job due to a hostile work environment, and thereafter worked part-time jobs. Appellant's income for the months that they did not have health insurance was lower than during when the Appellant had the health insurance. (Appellant's testimony, Exhibit 3).

5. Appellant did get a full-time job with insurance that started in January 2020, but was then laid off due to COVID-19. Appellant now has health insurance through MassHealth. (Appellant's testimony, Exhibit 3).
6. Appellant's expenses for food, shelter, clothing, and other necessities, used a significant portion of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$2,755.00 per month averaged out, or \$33,060.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$306.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$327.00. However, as stated above, Appellant's income during the months when there was no health insurance was lower, and if only that income is considered, then Appellant likely would be deemed not to be able to afford the health insurance. (Appellant's Testimony, Exhibit 3).
9. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Appellant did have health insurance for the months of January through March, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for six months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$49,084.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$327.00 per month; according to Table 4, Appellant, who was 43 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$306.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, vehicle expenses, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc:    Connector Appeals Unit

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-251

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 29, 2020

**Decision Date:** September 21 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on July 29, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Notices of Hearing (6-10-20) and (7-16-20) (4 pages);

Exhibit 2: Information from Schedule HC TY 2019 (1 page); and

Exhibit 3: Statement of Grounds for Appeal (3-5-20) (3 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 19 during 2019, from Hampshire County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance January through June though it was not reflected on the Schedule HC, and also did have health insurance for November and December 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$30,783.00 (Exhibit 2).

4. Appellant had health insurance through Appellant's mother from January through June, and then had it for November and December 2019 through the Health Connector. (Appellant's testimony, Exhibit 3).
5. 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, vehicle expenses, and other necessities, totaled approximately \$2,495.00 per month averaged out, or \$29,940.00 for the year. (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$231.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$128.00 (Appellant's Testimony, Exhibit 3).
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

Appellant did have health insurance for the months of January through June, and for November and December of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for seven months because the insurance Appellant had for January through June was not reflected on the Schedule HC. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$30,783.00 was deemed to have not been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$128.00 per month; according to Table 4, Appellant, who was 19 years old in 2019, from Hampshire County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$231.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 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 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: PA19-335

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 24, 2020

**Decision Date:** September 3, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

One of Appellants appeared at the hearing, which was held by telephone, on July 24 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (6-18-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-11-20) (with letter) (5 pages).

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, ages 41 and 37 during 2019, from Middlesex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellants did have health insurance January through June of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$124,611.00 (Exhibit 2).
4. One of Appellants who had the health insurance available through the employer was terminated from the employment as of July 2019, and thereafter the income for the family was greatly reduced. From July through the end of 2019, the income was unemployment for one of the Appellants and an hourly amount for the other Appellant. The total income for July through

December was significantly lower than from January through June. (Appellants' testimony, Exhibit 3).

5. Appellants' expenses for food, shelter, clothing, used a significant amount of the income during the months the Appellants did not have health insurance (Appellants' Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$4,560.00 per month averaged out, or \$54,720.00 for the year. The monthly income during the months that Appellants did not have health insurance was approximately \$4,400.00 (Appellants' Testimony, Exhibit 3).
6. The Appellants now has health insurance through the Appellant's employer (Appellants' 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 afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$768.00 for family coverage. According to Table 3, Appellants were deemed to afford \$830.00. However, if you take the income for the months when the Appellants did not have health insurance and annualized it, they could not afford health insurance based on the tables in Schedule HC. For those months, they would be deemed to afford \$257.00.
9. Private insurance was affordable for the Appellants in 2019, overall, but not affordable for the months that they did not have health insurance. (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 they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, 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; or 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. (Appellants' 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.

Appellants did have health insurance for the months of January through June of 2019 through one of their employers, but did not have health insurance for the remaining months of 2019. They each have been assessed a tax penalty for three months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellants during 2019, but if only the months that they did not have health insurance are considered, then it was not affordable. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of \$124,611.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$830.00 per month; according to Table 4, Appellants, who were 41 and 37 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 \$768.00 for family coverage per month for insurance on the private market. If the income for the months that they did not have health insurance is used, then they are deemed to afford \$257.00 and it would not be affordable. 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, and other necessities used a significant amount of the income during the months that they did not have health insurance. 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: 3/3      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: PA19-337

**Appeal Decision** Appeal Approved.

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

**Hearing Date:** July 24, 2020

**Decision Date:** September 9, 2020

## **AUTHORITY**

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

## **JURISDICTION**

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

## **HEARING RECORD**

One of Appellants appeared at the hearing, which was held by telephone, on July 24 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (6-18-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-11-20) (with letter) (4 pages).

## **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, age 34 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance January through April of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$55,424.00 (Exhibit 2).
4. Appellant had health insurance through the employer from January through April, and then lost the job and did not become employed until July 2019. Appellant was not able to obtain health insurance through the employer at that time, and tried to obtain health insurance through the

Health Connector but was not able to do so. The total income for June through December was lower than from January through April. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, and other necessities used all of the income during the months the Appellant did not have health insurance (Appellant's Testimony). The monthly expenses for food, shelter, clothing, student loan payments, and other necessities, totaled approximately \$4,620.00 per month averaged out, or \$55,440.00 for the year. The monthly income during the months that Appellant did not have health insurance was approximately \$4,375.00 (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$279.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$369.00.
8. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that they that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellants, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

Appellant did have health insurance for the months of January through April of 2019 through the employer, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for five months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$55,424.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$369.00 per month; according to Table 4, Appellant, who was 34 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$279.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, student loan payments and other necessities used all of the income. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 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: 5            Number of Months Assessed: 0

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

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

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

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: PA19-352

**Appeal Decision** Appeal Approved

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

**Hearing Date:** July 28, 2020

**Decision Date:** August 31, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on July 28, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open to allow Appellant to provide documents concerning his support for his extended family.

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

- Exhibit 1: Notice of Hearing dated June 22, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated 3/15/20
- Exhibit 4: Written Statement of Appeal Dated March15, 2020

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-nine years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant work in the medical business. The company he worked for did not offer health insurance..
3. Appellant stated that he provides support for his extended family in Uganda. He estimates he provided support that encompassed \$60,00.00 to \$72,000.00 in 2019. He was requested to provide prof of his assistance to his famil through an open record response. No documents were received.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$2,101.00, consisting of rent \$1,160.00, heat & light \$140.00, internet & cable \$80.00, cell phone \$40.00 car insurance \$71.00, car gas \$180.00 food \$470.00, credit card \$160.00, and significant expenses that Appellant stated were in the range of \$5,000.00 to \$6,000.00 a month to send aid to Uganda.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance,because Appellant's income of \$112,639.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Middlesex County for a 48 year old single

person was \$350.00. The tables reflect that Appellant could afford \$750.92. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

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

Appellant reported a federal AGI of \$112,639.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay

\$750.92 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of 350.00 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 stated that he provided \$5,000.00 to \$6,000.00 per month in aid to his extended family in Uganda. Appellant was requested to provide proof of those payments in his open record request. No documents were provided.

Appellant is deemed to afford \$750.92 for health insurance coverage because of his income. Private insurance in the market place was \$350.00 per month, which is less than he could afford.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-374

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** August 6, 2020  
**Decision Date:** September 10, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on August 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated July 7, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 18, 2020
- Exhibit 4: Statement in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 25 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$22,101 in 2019 (Exhibit 2).
4. Appellant lived and worked in another state in 2018 (Testimony of Appellant).
5. Appellant moved to Massachusetts in January 2019 to set up a branch of the same company that Appellant had worked for in another state (Testimony of Appellant).
6. From January through July, Appellant made very little income (Testimony of Appellant).
7. Appellant began making a consistent income in July, 2019 (Testimony of Appellant).
8. Employer sponsored health insurance was not available to Appellant in 2019 (Testimony of Appellant).
9. Appellant struggled to pay for basic living expenses in 2019 (Testimony of Appellant).
10. During 2019, Appellant had the following expenses for basic necessities: rent \$2,500; utilities \$100; food \$300; supplies \$100; clothing \$10; car insurance \$400; gasoline \$50; car maintenance \$50. Appellant's expenses for necessities were \$3,510.

11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
12. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$22,101 could afford to pay \$53 per month for private insurance. According to Table 4, Appellant, aged 25 and living in Middlesex County could have purchased private insurance for \$257 per month.
13. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
14. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
15. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
17. Appellant filed a hardship appeal on March 18, 2020 (Exhibit 3).
18. Appellant was enrolled in health insurance in 2020 (Testimony of Appellant).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was income eligible for government subsidized health insurance, but did not apply in 2019. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2019, Appellant struggled to pay for basic expenses and had very little income until July 2019. Appellant’s monthly expenses were \$3,510 and Appellant’s pre-tax monthly income was \$1,842. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

### **PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-375

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** August 6, 2020  
**Decision Date:** September 27, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on August 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated July 7, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 24, 2020
- Exhibit 4: Statement in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 21 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$25,267.00 in 2019 (Exhibit 2).
4. Appellant was a college student in 2019 (Testimony of Appellant).
5. Appellant was covered under a parent's health insurance during January through July 2019 (Testimony of Appellant).
6. Appellant believed that Appellant's insurance was in effect during August through December 2019 (Testimony of Appellant).
7. Appellant was not made aware that Appellant's parent's insurance was not in effect during August through December 2019 (Testimony of Appellant).
8. Appellant used Appellant's income to pay for college expenses and living expenses (Testimony of Appellant).
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 a person filing as single with no dependents with an adjusted gross income of \$25,267 could afford to pay \$88 per month for private insurance. According to Table 4, Appellant, age 21 and living in Worcester County could have purchased private insurance for \$257 per month.

11. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).

12. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).

13. Appellant did not have health insurance for five months in 2019 (Testimony of Appellant and Exhibit 2).

14. Appellant has been assessed a penalty for two months for 2019 (Exhibit 2).

15. Appellant filed a hardship appeal on March 24, 2020 (Exhibit 3).

16. Appellant was enrolled in health insurance in 2020 (Testimony of Appellant).

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

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for two 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 income eligible for government subsidized health insurance. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2019, Appellant’s income was used to pay educational and living expenses. Appellant had been covered under a parent’s plan in 2018 and 2019. Appellant’s coverage under the parent’s plan was not in effect from August through December, and Appellant was not made aware of the lapse. Appellant began coverage in 2020. Given these circumstances, I find the penalty assessed against Appellant for 2019 should be waived in its entirety. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08.

### **PENALTY ASSESSED**

Number of Months Appealed: 2

Number of Months Assessed: 0

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

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-376

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** August 6, 2020  
**Decision Date:** September 25, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on August 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open for two weeks so that Appellant could send in documents regarding available employer sponsored health insurance. Appellant did not send any documents and the record is now closed. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated July 7, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 20, 2020
- Exhibit 4: Statement in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 28 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Barnstable County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$34,935 in 2019 (Exhibit 2).
4. Employer sponsored health insurance was available to Appellant in 2019, but Appellant did not know the cost or the coverage of the offered health insurance (Testimony of Appellant).
5. Appellant did not look for or apply for health insurance in 2019 as Appellant considered health insurance a waste of money (Testimony of Appellant).
6. Appellant does not plan to get health insurance coverage (Testimony of Appellant).

7. Appellant had the following expenses for basic necessities: rent \$0; utilities \$275; food \$600; clothing \$50; car payment \$464; car insurance \$150; gasoline \$347; renter's insurance \$56; medical/dental expenses \$80. Appellant's expenses for necessities were \$2,022.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$34,595 could afford to pay \$144 per month for private insurance. According to Table 4, Appellant, aged 28 and living in Barnstable County could have purchased private insurance for \$257 per month.
10. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
11. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
12. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
13. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
14. Appellant filed a hardship appeal on March 20, 2020 (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G.L.c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L.c. 111M and M.G.L.c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. 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 may have been eligible for employer sponsored health insurance. Appellant was also income eligible for government subsidized health insurance, but did not apply in 2019. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant's monthly expenses were \$2,022 and Appellant's pre-tax monthly income was \$2,911. Purchasing health insurance would not have caused Appellant to suffer a hardship. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08. However for this year, I will assess a penalty for six months instead of twelve months. **Appellant is advised that this decision is based upon the facts as I have found them in 2019 ONLY. Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.**

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

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 6

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

OR

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

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

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

**ADDENDUM**

**Appellant is encouraged to contact Appellant's employer to get information about the available employer sponsored health insurance. Appellant is also encouraged to contact the Massachusetts Health Connector at 1 877 623-6765 to get information about subsidized health insurance. If Appellant does not take these steps, Appellant may be penalized for not having health insurance in the future.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-391

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** August 10, 2020

**Decision Date:** September 10, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on August 10, 2020. The Appellant's friend attended the hearing to assist the Appellant because the Appellant's primary language is Thai. The Appellant declined the offer of interpreter services and indicated they preferred to have their friend be their Appeal Representative. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the parties. The record was left open to allow the Health Connector to submit documents verifying the Appellant's Health Connector eligibility in tax year 2019. The information submitted by the Health Connector was forwarded to the Appellant. The record remained open until September 8, 2020 to allow the Appellant to submit a written response.

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 29, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated August 10, 2020.
- Exhibit 6: Additional documentation submitted by the Health Connector including eligibility notices.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant Head of Household age 61 in October 2019 and their Spouse, age 60 in April 2019 filed their 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 \$55,807 (Exhibit 2).
4. The information on the Appellants' Schedule HC-2019 indicated that the Appellants did not have health insurance for any months of tax year 2019 (Exhibit 2).
5. The Appellants have each been assessed a twelve-month tax penalty for 2019. The Appellants filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 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 \$55,807 could afford to pay \$272 per month for health insurance. In accordance with Table 4, the Appellants with one person age 61, living in Norfolk County, could have purchased private insurance for \$992 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.
8. The Appellants did not have access to employer sponsored health insurance in 2019. The Appellants would have been eligible for ConnectorCare coverage in 2019 because the Appellants' income was less than 300% of the federal poverty level, which was \$63,340 for a family of three in 2019 and (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they had MassHealth and received multiple notices with conflicting information in tax year 2019. The Appellant said that they still do not understand what happened with their health insurance (Appellant Testimony).
10. The Appellant submitted copies of multiple eligibility notices received from MassHealth and the Health Connector and two Forms 1099-HC verifying that the Appellants had health insurance for the periods of January through March and July through September in tax year 2019 (Exhibit 4).
11. The record was left open to request that the Health Connector submit information regarding the Appellants' eligibility for ConnectorCare in tax year 2019 (Exhibit 5).
12. Health Connector submitted documentation verifying that the Appellant was determined eligible for ConnectorCare on February 3, 2019 and was given instructions to enroll within 60 days. No enrollment was verified. In June 2019, the Appellant was again approved for ConnectorCare and did enroll for the period beginning July 1. The Appellant was asked to submit verification of a qualifying life event. The Appellant received ConnectorCare for the period of July through September, but the case closed for failure to submit requested information (Exhibit 6).
13. On August 31, 2019, the Appellant received a notice from MassHealth stating that their MassHealth had been renewed. The Appellant was eligible for Health Safety Net and their dependent was eligible for MassHealth Family Assistance (Exhibit 6).

14. The Appellant's Representative testified that they and the Appellant were not aware until this hearing that MassHealth and the Health Connector were not the same agency. The witness explained that the Appellant received multiple notices with conflicting information. On June 4, 2019, the Appellant was notified that they were not eligible for MassHealth but were eligible for Health Safety Net. The Appellant was not aware that Health Safety Net was emergency coverage only. On June 4, 2019 the Appellant was issued an Approval notice by Health Connector for ConnectorCare 3A, a notice requesting information and a notice informing the Appellant that they did not qualify for a Special Enrollment Period and therefore could not enroll in a health plan. On June 11, 2019 Health Connector issued a notice approving the Appellant for a Special Enrollment Period. The Appellant paid the premiums for the bills issued in July and August and the Appellant's representative explained that the Appellant believed they were found eligible for MassHealth again beginning August 30, 2019 (Exhibit 4).
15. Information provided by the Health Connector during the record open period was forwarded to the Appellant. The Appellant was informed that they could submit a written response by September 8, 2020 if they chose. The Appellant did not submit any further information (Exhibits 5, 6).

#### **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 return as a married couple with one dependent. According to the information contained in the Appellants' Schedule HC-2019 the Appellants did not have health insurance for any months of tax year 2019 and consequently the Appellant and their Spouse have been assessed a twelve-month tax penalty. Documentation submitted during the appeal process verifies that this was an error. The Appellants had health insurance for the periods of January through March and July through September. The Appellants did not have health insurance that met Massachusetts minimum creditable coverage standards (MCC) for the periods of April through June and October through December.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with one dependent claimed with an adjusted gross income of \$55,807 could afford to pay \$272 per month for health insurance. According to Table 4, the Appellants with one person age 61, living in Norfolk

County, could have purchased a private insurance plan for \$992 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellants in tax year 2019.

The Appellants did not have access to employer sponsored health insurance in tax year 2019. The Appellants would have been eligible for ConnectorCare coverage based upon the Appellant’s income which was less than \$62,340. 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.

The Appellant and their Representative confirmed that English is not the Appellant’s primary language. The Appellant’s family was receiving MassHealth for the first three months of tax year 2019. The Appellants’ MassHealth was terminated in March 2019 and in February 2019 the Appellants were determined eligible for ConnectorCare but did not enroll at that time. The Appellant’s Representative testified credibly that they and the Appellant were not aware until this administrative proceeding that MassHealth and the Health Connector were not the same agency. The Appellants attempted to respond to notices issued and did send in payment for monthly health care premiums when billed. Additionally, the parties did not understand that Health Safety Net was not MCC so when the Appellants received notices indicating they were eligible for Health Safety Net they believed they were again covered by MassHealth. Four notices were issued to the Appellant on June 4, 2019. The notices did in fact contain conflicting information and it is understandable the Appellant was confused.

The Appellants household of three had limited income in tax year 2019. The Appellants did not have access to employer sponsored health insurance or affordable private insurance. The record indicates that the Appellants attempted to comply with the requirement that they have health insurance that met MCC standards for all months of tax year 2019. The Appellants were successful for six months of tax year 2019 enrolling in MassHealth and ConnectorCare, but due in large part to a language barrier coverage was interrupted twice in tax year 2019. Under these circumstances, the Appellants’ twelve-month penalty is waived. See 956 CMR 6.08(3).

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  

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19407

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

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

**Hearing Date:** August 13, 2020

**Decision Date:** August 31, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on August 13, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until September 4, 2020 to give the appellant time to submit additional evidence. Documents were received by the Connector on August 20, 2020. These have been marked as exhibits and admitted in evidence. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated March 30, 2020 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated July 14, 2020 for August 13, 2020 hearing
- Exhibit 4: Appellant's 2019 Form MA 1099-HC showing coverage January through August with email from Appellant to Connector Appeals Unit

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single individual with no dependents claimed, turned 26 years old on August 24, 2019. Appellant resided in Middlesex County. He had a Federal Adjusted Gross Income of \$46,727 (Exhibit 1 and Exhibit 2, Testimony of Appellant).
2. On Appellant's 2019 tax return, Appellant indicated that he had no health insurance which met the Commonwealth's minimum creditable coverage standards (Exhibit 2).
3. Appellant had health insurance which met the Commonwealth's standards for eight months, January through August, in 2019. Appellant had coverage under his parent's plan until he turned 26 at the end of August (Testimony of Appellant, Exhibit 4).

4. Appellant started working at a Massachusetts state agency in July, 2019. He signed up for health insurance offered as a benefit with an effective start date of October 1, 2019. In October, he checked his paystub and found that there was no deduction for health insurance. When he inquired about this, he was told that he needed to submit proof that he was no longer covered under his parent's plan. He was also told that even if he did that, he would not be covered because he had missed the open enrollment period. The earliest Appellant could obtain coverage through work would be in April, 2020 (Testimony of Appellant).

5. Appellant signed up for coverage through his job during the next open enrollment period in April, 2020. As of the date of this hearing, Appellant still had coverage which met the Commonwealth's standards (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 was assessed for a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. It appears that Appellant made an error when completing his 2019 Massachusetts tax return, and did not indicate correctly the months during which he had health insurance which met the Commonwealth's standards. See Exhibit 2. In fact, Appellant had coverage which met minimum creditable coverage standards from January through August. See Exhibit 4, the appellant's parent's Form MA 1099-HC which shows that Appellant had coverage under his parent's plan. Appellant had no coverage from September through December. Pursuant to Massachusetts General Laws, Chapter 111M, Section 2, the appellant is entitled to a three-month grace period (with no penalty assessed) after losing coverage at the end of August. Appellant's penalty for September through November is waived.

Appellant started working at a Massachusetts state agency in July, 2019. He signed up for health insurance offered as a benefit with an effective start date of October 1, 2019. In October, he checked his paystub and found that there was no deduction for health insurance. When he inquired about this, he was told that he needed to submit proof that he was no longer covered under his parent's plan. He was also told that even if he did that, he would not be covered because he had missed the open enrollment period. The earliest Appellant could obtain coverage through work would be in April, 2020. He enrolled as soon as he could and as of the date of this hearing, still had insurance. See the testimony of the appellant which I find to be credible.

I determine that Appellant attempted to obtain health insurance, thought he had coverage, and through no fault of his own, ended up without coverage during December. Appellant wanted to have insurance and but for an

administrative issue, would have had it. I also note that as soon as he could, Appellant enrolled in a plan through employment. His penalty for December is waived.

Appellant's penalty is waived in its entirety.

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

### **PENALTY ASSESSED**

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

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

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

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

CC. Connector Appeals Unit

Hearing Officer

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19411

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

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

**Hearing Date:** August 13, 2020

**Decision Date:** August 31, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 5, 2020 with student loan bills, May and December, 2019 attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated July 14, 2020 for August 13, 2020 hearing
- Exhibit 4: Appellant's car insurance bills, July and August, 2019 and excise tax bill for 2019
- Exhibit 5: Appellant's 2019 property tax bill
- Exhibit 6: Appellant's telephone and internet bill, May, 2019 and credit card bill, October, 2019

### **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 30 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$29,035 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant had health insurance which met the Commonwealth's standards from January through May, 2019 though the Connector or MassHealth (Exhibit 2, Testimony of Appellant).
5. Appellant was employed in one restaurant from December, 2018 until mid-October, 2019. Appellant took a different job at the end of September. He had both jobs for a few weeks before quitting the first one. Appellant earned \$15 an hour at the first job and \$12 an hour plus tips at the second job. He worked 40 hours a week (Testimony of Appellant).

6. Appellant was offered health insurance through his first job. There was one day for signing up. Appellant did not know about it, so he missed the opportunity to have coverage through employment. He was also offered health insurance at the job he stated at the end of September, but he was eligible to sign up only after he had worked a certain number of hours. As of February, 2020, he was eligible to sign up. Appellant did enroll and has had coverage through his job since April 1, 2020, the earliest he could obtain coverage through the job. As of the date of this hearing, Appellant still had coverage (Testimony of Appellant).

7. Appellant has been assessed a penalty for four months, September through December, 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$29,035 could afford to pay \$101 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Plymouth County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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

12. Appellant fell more than thirty days behind in condo payments several times in 2019 (Testimony of Appellant).

13. Appellant had his telephone service shut off twice in 2019 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2019: condo fee-\$328; property tax-\$117; home owner's insurance-\$21; heat and electricity-\$30; telephone, internet-\$181; food-\$340; clothing-\$45;. car insurance- \$152; gas-\$260; tolls and excise tax-\$30; old credit card debt-\$75. In addition, Appellant had to pay \$81 a month for storage of his parents' possessions. His parents had died in an accident (Testimony of Appellant, Exhibits 4, 5, and 6).

15. Appellant had student loans outstanding in 2019. He was supposed to pay \$1, 250 a month, but he was unable to make any of the payments (Exhibit 1 attachment).

## **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 September through December, 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$29,035 could afford to pay \$101 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Plymouth County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for him. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in during the months in question. At one of the jobs he had in September, he had missed the open enrollment period. He started at another job in October. The employer offered health insurance benefits, but Appellant had to have worked a certain number of hours before he was eligible for coverage. As of February 1, 2020 he was eligible to sign up for coverage. Appellant did opt for the coverage with an effective start date of April 1, 2020. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$29,035, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.04.

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

Appellant had the following expenses for basic necessities in 2019: condo fee-\$328; property tax- \$117; home owner’s insurance-\$21; heat and electricity-\$30; telephone, internet-\$181; food-\$340; clothing-\$45; car insurance-\$152; gas-\$260; tolls and excise tax-\$30; old credit card debt-\$75. In addition, Appellant had to pay \$81 a month for storage of his parents’ possessions. His parents had died in an accident. See the testimony of Appellant which I find to be credible and Exhibits 4, 5, and 6. Appellant also had student loans outstanding in 2019. He was

supposed to pay \$1,250 a month, but he was unable to make any of the payments. During 2019, Appellant fell more than 30 days behind in his condo fees several times and had his telephone service shut off twice. See the testimony of Appellant, which I find to be credible and Exhibit 1 attachment.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him during the months September through December. Falling more than 30 days behind in housing costs and having a basic utility such as telephone service cut off constitute financial hardships. See 956 CMR 6.08(1)(a) and (b). Appellant also had significant student loans payments due which he was unable to make during 2019. See also 6.08(3) which allows the consideration of other financial issues raised by Appellant during the hearing.

I also note that as soon as he was eligible, Appellant opted for health insurance coverage through employment.

Appellant's penalty is waived in full.

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

#### **PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19412

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

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

**Hearing Date:** August 13, 2020

**Decision Date:** August 27, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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 3, 2020 with letter in support and electric bill payment history attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated July 14, 2020 for August 13, 2020 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 49 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Berkshire County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$24,831 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant worked at the same job all of 2019. She was paid by the hour and worked an average of 30 hours a week. She worked fewer hours during the winter months (Testimony of Appellant).
5. Appellant was not offered health insurance through her job (Testimony of Appellant).
6. Appellant tried to obtain coverage through the Connector in 2019. She was told that she had to wait until November to apply. She was uninsured the whole year. As of April 1, 2020, Appellant had MassHealth coverage (Testimony of Appellant, Exhibit 2).
7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$24,831 could afford to pay \$86 per month for health insurance. According to Table 4, Appellant, 49 years old and living in Berkshire County, could have purchased insurance for \$314 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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

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

13. Appellant did receive a shut-off notice for electricity in 2019. She was able to enter into a payment plan with the utility company. Her electricity bill was higher than usual in 2019 because in 2018 her furnace broke. Appellant did not have the funds to get it fixed, so she began to use electric heaters to heat her home (Testimony of Appellant, Exhibit 1 attachment).

14. Appellant had the following monthly expenses for basic necessities in 2019: mortgage including property taxes and home owners insurance-\$583; heat and electricity-\$190 on average (varied from \$235 to \$140); telephone and internet-\$164; food-\$725 on average; car payment-\$382; car insurance-\$150; gas-\$120; clothing-\$100. During the year, the appellant also had to pay almost \$1,000 for car repairs and \$100 each month to pay off old credit card debt (Testimony of Appellant, Exhibit 1 attachment).

## **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. To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 \$24,831 could afford to pay \$86 per month for health insurance. According to Table 4, Appellant, 49 years old and living in Berkshire County, could have purchased insurance for \$314 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment in 2019. The company appellant worked for did not offer coverage to any of its employees. See the testimony of the appellant which I find to be credible.

Appellant could have had affordable coverage through the ConnectorCare program. Her annual Federal Adjusted Income was \$24,831, less than the income limit for one person (\$36,420). She also had no access to employer-sponsored insurance. See 956 CMR 12.04 (3).

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

Appellant had the following expenses for basic necessities in 2019: mortgage including property taxes and home owners insurance-\$583; heat and electricity-\$190 on average (varied from \$235 to \$140); telephone and internet-\$164; food-\$725 on average; car payment-\$382; car insurance-\$150; gas-\$120; clothing-\$100. During the year, the appellant also had to pay almost \$1,000 for car repairs and \$100 each month to pay off old credit card debt Exhibit See the testimony of Appellant, which I find to be credible, and 1 attachment.

Appellant's monthly income before taxes averaged \$2,070 a month. Her monthly expenses for basic necessities, including debt payment and car repair expenses amounted to about \$2,500. Appellant ran a deficit each month. See the testimony of the appellant which I find to be credible and Exhibit 1 attachments. Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e) and 6.08(3) which allows consideration of other financial issues raised by the appellant during the hearing.

In addition, Appellant received a shut-off notice for her electricity and had to enter a payment plan in order to avoid the shut-off. See 956 CMR 6.08(1)(b).

I also note that as of the date of this hearing, Appellant had MassHealth coverage.

Appellant's penalty is waived in full.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-424

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** August 13, 2020  
**Decision Date:** September 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

- Exhibit 1: Correspondence from the Health Connector, dated July 16, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated April 1, 2020
- Exhibit 4: Statement in support of Appeal

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants were 63 years old in 2019. Appellants filed a Massachusetts 2019 tax return as married filing jointly with no dependents claimed (Exhibit 2).
2. Appellants resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellants had an Adjusted Gross Income of \$62,070 in 2019 (Exhibit 2).
4. Appellant was laid off in January 2019 and was unemployed until August 2019 (Exhibit 4 and Testimony of Appellant).
5. Appellants struggled to pay bills for basic expenses during January through August, when Appellant was unemployed (Testimony of Appellant).
6. Appellant began a new job and obtained employer sponsored health insurance in August 2020 (Testimony of Appellant).

7. During 2019, Appellant had the following expenses for basic necessities: rent \$2,500; utilities \$100; food \$300; supplies \$100; clothing \$10; car insurance \$400; gasoline \$50; car maintenance \$50. Appellants' expenses for necessities were \$3,510.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with no dependents with an adjusted gross income of \$62,070 could afford to pay \$393 per month for private insurance. According to Table 4, Appellants, aged 63 and living in Norfolk County could have purchased private insurance for \$836 per month.
10. Private insurance was not considered to be affordable for Appellants in 2019 (Schedule HC for 2019).
11. Appellants, earning more than \$49,380 would not have been income eligible for government subsidized health insurance. However, Appellants may have been income eligible for government subsidized health insurance during Appellant's time of unemployment (Schedule HC for 2019).
12. Appellants did not have health insurance for six months in 2019 (Testimony of Appellant and Exhibit 2).
13. Appellants have been assessed a penalty for four months for 2019 (Exhibit 2).
14. Appellants filed a hardship appeal on April 1, 2020 (Exhibit 3).

## **ANALYSIS AND CONCLUSIONS OF LAW**

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellants may have been income eligible for government subsidized health insurance during the time that Appellant was unemployed, during January through July. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During January through July, Appellants struggled to pay for basic expenses and had very little income until August 2019. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

**PENALTY ASSESSED**

Number of Months Appealed: 4/4

Number of Months Assessed: 0/0

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

OR

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

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

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-427

**Appeal Decision:** Penalty Overturned in Full  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** August 13, 2020  
**Decision Date:** September 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

Appellant appeared at the hearing, which was held by telephone, on August 13, 2020. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated July 16, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated April 6, 2020.
- Exhibit 4: Tax Penalty Appeal for 2018

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant was 57 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$27,581 (Exhibit 2). Appellant applied for health insurance from the Health Connector for 2019 and was found eligible for a subsidized plan for 2019 (See Exhibit 5).
4. Appellant did not complete the enrollment or pay for the plan (Testimony of Appellant).
5. During 2019, Appellant had the following expenses for basic necessities: rent \$900; utilities \$100; telephone \$50; food \$400; supplies \$75; clothing \$150; gasoline \$100. Appellant's expense for necessities were \$1,775. Appellant helped care for a special needs grandson (Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

7. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
8. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
9. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
10. Appellant filed a hardship appeal on April 6, 2020 (Exhibit 3).

**ANALYSIS AND CONCLUSIONS OF LAW**

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. 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.

In January 2019, Appellant was found eligible for government subsidized health insurance, but decided not to enroll. Affordable health insurance was available to Appellant for 2019. Appellant had monthly expenses of \$1,775. Appellant’s pre-tax income was \$2,298 per month. Purchasing subsidized health insurance would not have caused a serious deprivation of food, shelter clothing or other necessities. See Exhibit 5 and Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

**PENALTY ASSESSED**

Number of Months Appealed: 12

Number of Months Assessed: 3

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

OR

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

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

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

## **ADDENDUM**

**Appellant should note that this decision is based upon the facts as I have found them for 2019 and that such a decision may not be made in the future if Appellant fails to have health insurance. Appellant is once again encouraged to obtain health insurance, otherwise a full penalty may be imposed in the future.**

**Appellant is encouraged to immediately contact the Health Connector for information on subsidized health insurance.**

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-442

**Appeal Decision:** Appeal Granted

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

**Hearing Date:** August 20, 2020

**Decision Date:** August 31, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on August 20, 2020. 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: 4/23/20 Appeal (6 pages)
- Exhibit 3: 7/16/20 Hearing Notice (2 pages)

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Head of Household with one dependent. The Appellant's federal AGI in 2019 was \$27,498. The Appellant resided in Norfolk County in 2019. The Appellant turned twenty-seven years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a seven-month penalty on her 2019 income tax return, checking off on the appeal form: "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities;" and, "Other," as the bases for her appeal. (Exhibit 2)
3. During 2018, the Appellant had health coverage through the school that she attended. (Appellant's testimony)
4. In November 2018, the Appellant started a new job. Her employer offered health insurance coverage after a three-month waiting period. The coverage cost a monthly premium of \$298.34 for family coverage. (Appellant's testimony)

5. During the periods from January 2019 through March 2019 and from June 2019 through July 2019, the Appellant was in and out of Massachusetts three times, traveling to and living in Portland, Oregon, where her family lives. She needed to go there to deal with family matters. While the Appellant was able to perform limited work for her employer remotely while in Oregon, her income was significantly reduced during those months. (Exhibit 2; Appellant's testimony)
6. In May 2019, the Appellant's employer changed her job status from full time to part time. As a result, the Appellant was no longer eligible for the health coverage offered by her employer. (Exhibit 2; Appellant's testimony)
7. In August 2019, the Appellant began looking for a new job offering less expensive health insurance coverage. She accepted a new job in the early fall of 2019 and enrolled in the health insurance coverage offered by her new employer, effective November 1, 2019, and continuing through the remainder of 2019. (Appellant's testimony)
8. The Appellant's basic monthly expenses in 2019 included: rent, \$1,000; utilities, \$125; phone, \$40; public transport, \$85; food, \$540; and, clothing, \$25, for a total of \$1,815/monthly, or \$21,780 for the year. (Appellant's testimony)
9. According to Table 2 of the Schedule HC 2019, the Appellant was eligible for government-subsidized insurance in 2019, since her AGI for 2019 was less than \$49,380 for a family of two.
10. According to Table 3, Affordability, of the Schedule HC 2019, based on her 2019 AGI and Head of Household with one dependent tax filing status, the Appellant could have afforded to pay up to 4.3 percent of income for health insurance, which calculates to a monthly premium of up to \$98 for health insurance coverage in 2019.
11. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in Massachusetts, based on her age and county of residence, for a monthly premium of \$257.

## **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 had a three-month grace period at the start of 2019 to obtain health insurance coverage. However, I find credible the Appellant's testimony that she was primarily residing in Oregon with her family during the first three months of 2019 and in June and July 2019 as well. While she resided in Massachusetts for two months, April and May 2019, before returning to Oregon, the Appellant's income was deflated significantly during the first five months of 2019 due to the limited hours that she was able to work remotely for her employer while living in Oregon. As a result, I conclude that health insurance coverage was unaffordable during that time. Also, I find that the Appellant was entitled to another three-month grace period, through October 2019, to obtain health insurance coverage once she took up residence in Massachusetts again in August 2019. By changing jobs and obtaining coverage through her new employer, effective November 1, 2019, the Appellant met the requirement of M.G.L c. 111M, § 2.

Under these circumstances, I conclude that the Appellant experienced financial hardship such that the expense of purchasing health insurance in 2019 would have caused her family a serious deprivation of basic necessities, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant's seven-month penalty for 2019 shall be waived in full.

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-504

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** September 10, 2020  
**Decision Date:** September 28, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on September 10, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/10/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation-Termination Notice 10/17/19 (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/3/2020 (2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single with zero dependents, was age 32 in 2019, and lived in Hampden County. (Exhibit 1, Testimony of Appellant).
2. The Appellant worked full time where she made approximately \$11/hour. (Testimony of Appellant).
3. The Appellant could not afford the cost of Employer Sponsored Insurance ("ESI") premium which was approximately \$200/month. (Testimony of Appellant).
4. The Appellant was able to obtain Employer Sponsored Insurance ("ESI") in February 2020 after her living arrangements changed leaving her with disposable income to purchase ESI. (Testimony of Appellant).
5. The Appellant investigated obtaining government sponsored health insurance but testified it was too

expensive and she did not qualify. (Testimony of Appellant).

6. The Appellant's Federal Adjusted Gross Income for 2019 was \$ 24,928(Exhibit 1).
7. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. (Exhibit 1).
8. The Appellant she received an Electricity termination notice and had received 3 or 4 prior notices (Testimony, Exhibit 2(a)).
9. The Appellant testified she was only able to not have the electricity shut off after entering into a payment plan. (Testimony of Appellant).
10. The Appellant lived with her Mother and Brother and contributed substantial expenses where they were not working. (Testimony).
11. The Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$500, Utilities \$450, Cell Phone \$40, Car Insurance \$120, Car Payment \$250, Gas \$320, Food \$600, totaling: \$2,280.
12. The Appellant testified her biweekly net pay was approximately \$700. (Testimony).
13. According to Table 3 Appellant could have afforded \$76.75 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$250.00 per month. (Testimony of Appellant).
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain

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

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

The evidence provided by the Appellant established that her income for 2019, \$24,928.00, was less than 300% of the federal poverty level, which for 2019 was \$36,240 for an individual with a family size of 1. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$24,928 in 2019 and could have afforded \$76.75 per month. According to Table 4, Appellant, age 32 and living in Hampden County during the time she was being penalized for not having insurance, could have purchased insurance for \$250.00 per month for an individual plan. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance. The Appellant credibly testified that health insurance was offered through her employer, but she could not afford the \$200 monthly premium. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant’s employer was \$200. That cost is less than 9.86 percent of the Appellant’s projected household MAGI for 2019 (i.e.—9.86 percent of \$24,928.00 is \$2,457/90 or \$204.82/month). Hence, since the cost of employer insurance is less than \$204.82/month, she is considered to have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). However, the ESI cost of \$204.82 is greater than the amount she could have afforded under Table 3 of the Schedule HC(\$76.75), and as a result ESI was not affordable under Table 3.

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

The Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$500, Utilities \$450, Cell Phone \$40, Car Insurance \$120, Car Payment \$250 Gas \$320, Food \$600, totaling: \$2,280.

Based upon the facts summarized above, I determine that the Appellant is not subject to a penalty because she did not have access to affordable coverage, and even if she did, the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The cost of purchasing health insurance was not affordable to her because she experienced a hardship where the appellant received a termination notice which was corroborated by documentation. She also credibly testified she had received 3 or 4 prior utility notices. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the Appellant's net monthly income of \$1,516.67 was subsumed in her basic necessary monthly expenses of \$2,280, and would not have allowed the Appellant to afford the cost of a premium in the amount of \$ 76.75. It is concluded that the Appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

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

## **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-507

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** September 10, 2020  
**Decision Date:** September 28, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on September 10, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/4/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Form 1095-C 2019 (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 4/13/2020 (2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single with zero dependents, was age 24 in 2019, and lived in Middlesex County. (Exhibit 1, Testimony of Appellant).
2. The Appellant did have health insurance in 2019 through her Father in Pennsylvania as reflected on the Appellant's 1095-C. (Exhibit 2 (a). Testimony of Appellant).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$33,851(Exhibit 1).
4. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. (Exhibit 1).

5. According to Table 3 Appellant could have afforded \$141.04 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$257.00 per month. (Testimony of Appellant).

5. Private insurance was not affordable to the Appellant in in 2019. (Exhibit 1).

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

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

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

The Appellant submitted grounds with her appeal and did produce testimony that Other. During 2019 other circumstances that she was unable to obtain government sponsored-subsidized insurance that the expense of purchasing health insurance was not affordable to her. (See Exhibit 2).

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

The Appellant credibly testified, and the evidence provided by the Appellant established that she did have health insurance for 2019 through her Father’s employer sponsored insurance. (Testimony, Exhibit 2(a)). Based upon the facts summarized above, I determine that the Appellant is not subject to a penalty because she did have health insurance. It is concluded that the Appellant established through substantial and credible evidence that she had health insurance.

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

### **PENALTY ASSESSED**

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

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

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

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

Cc: Connector Appeals Unit

Hearing Officer

**ADDENDUM**

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-522

**Appeal Decision** Appeal Allowed

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

**Hearing Date:** September 10, 2020

**Decision Date:** September 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 29, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant

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

Exhibit 1: Notice of Hearing dated August 3, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated April 13, 2020

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The appellant is thirty-two years old and is single. She lives in Worcester County, Massachusetts. Appellant works in a pharmacy services business.
2. Appellant had health insurance in 2019 but traveled overseas to celebrate her father's life. Her father died in 2018 and lived with Appellant. Appellant left work in June of 2019 but had health insurance through June 2019. Appellant was overseas during July and August 2019. When Appellant returned she obtained work in October 2019, however there was a waiting period until 2020 before her health insurance initiated.
3. Appellant does have health insurance in 2020.
4. The Appellant's monthly expenses totaled \$2,173.00, consisting of rent \$500.00, heat & light \$100.00, internet & cable \$50.00, cell phone \$100.00, food \$200.00, car payment \$400.00 car insurance \$123.00, car gas \$100.00, credit card \$500.00, significant expenses (travel overseas) \$100.00
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "During 2019, you incurred a significant unexpected increase in essential expenses resulting directly from the consequences of death of a family member" and should have appealed also under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" . I will hear her appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$32,599.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 31 year old single person was \$279.00. The tables reflect that Appellant could afford \$135.82. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did submit a Statement of Grounds for Appeal-2019 “During 2019, you incurred a significant unexpected increase in essential expenses resulting directly from the consequences of death of a family member” and should have appealed also under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” . I will hear her appeal under both grounds.

Appellant had health insurance in 2019 but traveled overseas to celebrate her father’s life. Her father died in 2018 and lived with Appellant. Appellant left work in June of 2019 but had health insurance through June 2019. Appellant was overseas during July and August 2019. When Appellant returned she obtained work in October 2019, however there was a waiting period until 2020 before her health insurance initiated.

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

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

Appellant reported a federal AGI of \$32,599.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay

\$135.82 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$279.00 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 \$135.82 for health insurance coverage because of her income. Private insurance in the market place was \$279.00 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 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed:   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 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: PA19-529

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 11, 2020

**Decision Date:** September 17, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 11, 2020, 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—2019

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 23-years-old, is single, and does not have children. He resided in Essex County, MA in 2019. He did not have health insurance in 2019. (Testimony, Ex. 2)
2. The appellant had health insurance through MassHealth for all of 2018. Prior to 2019, he had never been assessed a penalty for failure to obtain insurance. (Testimony)
3. The appellant was employed on a full-time basis in 2019, but the employer did not offer health insurance. He applied for insurance through the Health Connector, but ran into technical difficulties when filling out his application. He called the Connector on several occasions and was unable to get assistance with completing his application. Eventually, he was unable to access his application online and spoke with a customer service representative at the Connector who advised him to file another application. After attempting to file a new application and running into similar difficulties, he gave up and did not look into any other options. (Testimony)

---

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

4. For 2020, the appellant returned to the Health Connector website to investigate his eligibility for insurance. His stepmother assisted him with part of the application. He called the Connector for additional assistance and a customer service representative helped him complete the application online. The applicant's enrollment is effective October 1, 2020. (Testimony)
5. The appellant reported an adjusted gross income of \$49,437.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
6. In 2019, the appellant had regular monthly expenses of approximately \$2170.00 for rent (\$600.00), automobile loan (\$385.00), automobile insurance (\$200.00), cell phone (\$85.00), food (\$800.00) and gasoline (\$100.00). In addition, the appellant paid \$50.00/month for a student loan and \$100.00/month for credit card debt. (Testimony)

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

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019, but did not check off a specific ground for the appeal.

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 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he was employed in 2019, but his employer did not offer health insurance. He testified that he attempted to complete an online application through the Health Connector, but ran into technical difficulties. He testified that he spoke with a customer service representative who advised him to file a second application. He testified that he tried to complete another application and ran into technical difficulties again and gave up. He testified that for 2020, he was able to enroll for insurance beginning on October 1, 2020 with the help of a customer service representative who assisted him in filling out his application online. Finally, he testified that he had health insurance with MassHealth for all of 2018 and that he had never been assessed a penalty prior to 2019 for failure to obtain insurance.

The evidence provided by the appellant established that his income for 2019, \$49,437.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income above \$48,560.00 is deemed to be able to afford a monthly premium of \$329.58 (8.00% of \$49,437.00/12). Table 4 of the Premium Schedule indicates that a 22-year-old individual (the age of the appellant in 2019) Essex County

(where the appellant resided in 2019) could have purchased private health insurance for \$257.00 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 2019.

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 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2019 he incurred basic monthly expenses of approximately \$2320.00, including his student loan and credit card debt. Those expenses were less than his regular monthly pre-tax income of approximately \$4120.00, thereby making a private health insurance premium of \$257.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1800.00 per month is not a panacea, it does not appear on its face that the payment of a private premium 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 testified that he applied for insurance through the Health Connector and after two attempts and phone calls with a customer service representative, he was unable to complete an online application due to technical difficulties. He further testified that he enlisted the assistance of a customer service representative for 2020 insurance, and was able to enroll effective October 1, 2020, thereby demonstrating that the mandate to obtain insurance was not lost on him.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. He is advised however not to rely on a similar extension of leniency should he be assessed and appeal a tax penalty in the future. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by him in this appeal.

**PENALTY ASSESSED**

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

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-530

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 11, 2020

**Decision Date:** September 18, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 11, 2020, 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—2019

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 30-years-old, is single, and does not have children. She resided in Suffolk County, MA in 2019. She did not have health insurance in 2019. (Testimony, Ex. 2)
2. Prior to 2019, the appellant last had health insurance in 2018 as a student. (Testimony)
3. The appellant worked as an independent contractor in 2019 and earned a combination of W-2 and 1099 income. No health insurance was offered by any of her employers. She investigated her eligibility for health insurance through the Health Connector, but had difficulty navigating the website. The cheapest insurance she located was a catastrophic plan which would have cost approximately \$170.00/month and which she determined that she could not afford. (Testimony)
4. For 2020, the appellant was able to enroll in her domestic partner's health insurance plan, an option that was not available to her in 2019. (Testimony)

---

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

5. The appellant reported an adjusted gross income of \$35,468.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. In 2019, the appellant had regular monthly expenses of approximately \$1923.00 for rent which included heat (\$1000.00); electricity (\$90.00), internet and cable service (\$100.00); renter's insurance (\$12.00); automobile loan (\$295.00), automobile insurance (\$96.00); food (\$280.00) and gasoline (\$50.00). In addition, the appellant paid \$136.00/month for a student loan. (Testimony, Ex.1)

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

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. She also submitted a letter with her statement in which she stated in part that after she paid her regular monthly expenses, she had approximately \$230.00 left to cover food, gas and other miscellaneous expenses, thereby making a monthly premium of \$170.00 for catastrophic insurance unaffordable.

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 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that in 2018 she had student health insurance. She testified that in 2019 she was employed as an independent contractor and health insurance was not available through any of her employers. She testified that she investigated her eligibility for insurance through the Health Connector, and determined that a catastrophic plan would have cost approximately \$170.00/month which she could not afford. Finally, she testified that for 2020, she was able to enroll in her domestic partner's plan, an option that was not available in 2019.

The evidence provided by the appellant established that her income for 2019, \$35,468.00, was less than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$30,351.00 and \$36,420.00 is deemed to be able to afford a monthly premium of \$147.78 (5.00% of \$35,468.00/12). Table 4 of the Premium Schedule indicates that a 29-year-old individual (the age of the appellant in 2019) in Suffolk County (where the appellant resided in 2019) could have purchased private health insurance

for \$257.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$147.78 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized 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 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if 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 sufficient 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 2019 she incurred basic monthly expenses of approximately \$2059.00, including her student loan. Although those expenses were less than her regular monthly pre-tax income of approximately \$2956.00, thereby making a subsidized insurance premium of \$147.78 seemingly manageable, the difference of \$897.00/month was an inadequate cushion to cover both the premium and unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-532

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 11, 2020

**Decision Date:** September 20, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 11, 2020, 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—2019
- 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 married, and has one child. He resided in Worcester County, MA in 2019. In 2019, he had health insurance for the months of January through March and for December. <sup>2</sup>  
(Testimony, Ex. 2)
2. Prior to 2019, the appellant was never assessed a penalty for failure to obtain health insurance.  
(Testimony)
3. The appellant works in the construction industry and is typically laid off during the winter months each year. In 2019, he was unemployed for the first few months and then returned to work on a full-time basis. His employer does not offer health insurance. (Testimony)

---

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

<sup>2</sup> The appellant got married in July, 2020.

4. The appellant had health insurance for the months of January through March, 2019, through the Health Connector and for which he paid a monthly premium of approximately \$200.00. Due to high expenses including financial responsibility for his then girlfriend and a new baby, and legal expenses for a matter in 2018, he could not afford the premium and dropped the insurance. His father added him to his insurance plan for the month of December, and he remained enrolled in the plan throughout 2020. (Testimony, Ex. 2)
5. The appellant reported an adjusted gross income of \$43,167.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
6. In 2019, the appellant had regular monthly expenses of approximately \$2489.00 for rent (\$600.00), heat (\$100.00), electricity (\$125.00), cable and internet service (\$135.00), cell phone (\$55.00), automobile loan (\$500.00), automobile insurance (\$174.00), food (\$640.00) and gasoline (\$160.00). In addition, he incurred approximately \$2000.00 in car repairs. (Testimony)

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019, but did not check off a specific ground for the appeal. He also submitted a letter with his appeal in which he stated in part that he was faced with crippling financial circumstances which were exacerbated by a period of unemployment and which forced him to drop his health insurance because he could not afford the premium.

The appellant had insurance from January through March and in December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for eight months, he was assessed and is appealing a penalty of five months (i.e. his months of uninsurance less the gap period of three months).

The appellant testified credibly that he is a seasonal employee in the construction industry and is typically laid off during the winter months of each year. He testified that he was unemployed for the first few months of 2019 and then returned to work on a full-time basis. He testified that his employer does not offer health insurance and he had insurance through the Health Connector for January through March. He testified that he was forced to drop the insurance due to high expenses including financial responsibility for his then girlfriend and a new baby, and legal expenses from a matter which was resolved in 2018. Finally, he testified that his father added him to his plan for the month of December and he has remained enrolled in the plan throughout 2020.

The evidence provided by the appellant established that his income for 2019, \$43,167.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$42,491.00 and \$48,560.00 is deemed to be able to afford a monthly premium of \$273.39 (7.60% of \$43,167.00/12). Table 4 of the Premium Schedule indicates that a 24-year-old individual (the age of the appellant in 2019) in Worcester County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 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 2019.

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 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2019 he incurred basic monthly expenses of approximately \$2489.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$3597.00, thereby making a private insurance premium of \$257.00 seemingly manageable, the difference of \$1108.00/month was an inadequate cushion to cover both the premium and unanticipated expenses that typically arise, such as the \$2000.00 in car repairs which he incurred. In addition, the appellant enrolled in his father's insurance in December and has remained enrolled throughout 2020, thereby demonstrating that the mandate to obtain insurance was not lost on him. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

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

#### **PENALTY ASSESSED**

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

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

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: PA19-533

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 11, 2020

**Decision Date:** September 24, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 11, 2020, 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—2019

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 29-years-old, is single, and does not have children. He resided in Middlesex County, MA in 2019. In 2019, he had health insurance from January through May. (Testimony, Ex. 2)
2. The appellant was a student from January through May, 2019, during which time he had student health insurance. After graduation, he had high expenses including repayment of a student loan. He was employed on a part-time basis for the remainder of the year, and was not eligible for employer health insurance due to his part-time status. He investigated other insurance options and determined that he could not afford to cover the cost. (Testimony, Ex. 2)
3. The appellant has been enrolled in a subsidized health insurance plan through the Health Connector since January 1, 2020. (Testimony)

---

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

4. By notice dated December 26, 2019, the appellant was notified by Eversource that his electricity would be shut off on January 23, 2020 if he did not pay \$295.68 by January 22, 2020. He was able to pay the full amount prior to the required date to avert the shut off. (Testimony, Ex. 1) <sup>2</sup>
5. The appellant reported an adjusted gross income of \$21,383.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2019 because he received a shut-off notice, was shut off, or was refused delivery of essential utilities.

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 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for seven months, he 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 he was a student from January through May during which time he had student health insurance. He testified that after graduation, he was employed for the remainder of the year on a part-time basis and was not eligible for employer health insurance due to his part-time status. He testified that he investigated other health insurance options but could not afford the cost, particularly since he was faced with big expenses following his graduation. He testified that he received a shutoff notice for his utilities at the end of December and was able to avoid termination of his service by paying the full amount due by the deadline in January, 2020. Finally, he testified that he has been enrolled in health insurance through the Connector since January 1, 2020.

The appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, or sudden responsibility for providing care for a family member, or fire, flood or natural disaster. In addition, the appellant’s tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would

---

<sup>2</sup> The appellant believes that he also received a shut off notice for his electricity in the spring of 2020, but he did not retain a copy of the notice for his records.

have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant's testimony regarding the shutoff of his electricity was corroborated by a notice dated December 26, 2019 from Eversource indicating that his service would be terminated on January 23, 2020 unless he paid \$295.68 by January 22, 2020. Accordingly, it is concluded that the appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b) as a result of which he should not be subject to a penalty.

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

**PENALTY ASSESSED**

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-552

**Appeal Decision:** The penalty is overturned in full.  
**Hearing Issue:** Appeal of the 2019 Tax Year Penalty  
**Hearing Date:** September 17, 2020  
**Decision Date:** September 28, 2020

**AUTHORITY**

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

**JURISDICTION**

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

**HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone on September 17, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellants testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/4/2020. (4 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence Health Connector 4//2020 (2 PP).
- Exhibit 2(b) Appellant's Supporting Documentation Medical and Dental Bills, Credit Card Statements And Flight Booking Documents (11PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 8/10/2020 (2 PP).

**FINDINGS OF FACT**

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 2, with no dependents. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$83,882 (Exhibit 1).
3. Appellant testified her Spouse is disabled and on Medicare. (Testimony).
4. Appellant works full time as a waitress and because of how she was compensated through payroll, she was unable to afford employer health insurance with premiums at approximately \$357 per month. (Testimony).
5. Appellant testified she was on the Connector until late 2018 and was paying approximately \$357/month but was forced to cancel because of unforeseen out of pocket health/dental and funeral expenses for family members they incurred. (Testimony of Appellant, Exhibit 2(a)).
6. Appellant testified she had ongoing communication issues with the Connector in late 2018 and early 2019

attempting to cancel and reenroll in her plan, lack of clear rules on how to cancel as well as how the premiums were applied. (Testimony, Exhibit 2(a)).

7. Appellants testified she attempted to reenroll in the Connector in January 2019 but there were communication issues with application and reimbursement of premiums she had paid which prevented her from enrolling until May. (Testimony, Exhibit 2(a)).
8. Appellant was able to reenroll in the Connector in May with an increased premium of \$639/month. (Testimony).
9. Appellant testified their expenses were approximately \$5,000 which included out of pocket dental, medicals, flights necessary to obtain medical care in another country, cremation costs. (Testimony of Appellant).
10. Appellant testified she had a family emergency and had to travel back home.
11. Appellant has been assessed a tax penalty for two (2) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
12. Appellant was laid off for approximately 6 months because of Covid and only recently returned to work. (Testimony).
13. According to Table 3 Appellant could have afforded \$559.21 per month for an individual health insurance for in 2019. According to Table 4 Appellant could have purchased an individual plan for \$418 per month.
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

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

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. The Appellant Husband has been assessed a tax penalty for two (2) months in 2019. The Appellant Husband has not been assessed a penalty. The Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants did not check of a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to them during 2019. However, the Appellant did present testimony during the hearing including exhibits that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

The Appellant Wife testified that that employer sponsored health insurance was offered through her employer, but she could not afford same because of the way she was compensated as a waitress leaving her with earnings to pay

an employee premium through her payroll. The Appellant testified that she was on the Connector, discontinued it in late 2018 because of her expenses, attempted to reenroll in January 2019 but was precluded from doing so because of communication issues and lack of guidance with the Connector involving application of payments she had previously made while she was on her account. She ultimately reenrolled in May at an increased premium of \$639.

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

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$83,882.00 in 2019 was more than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two, and the Appellant Wife could have afforded \$559.21 per month to purchase affordable insurance for herself where her Spouse was covered through Medicare. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with zero (0) dependents with a federal adjusted gross income of \$83,882.00 and higher is deemed to be able to afford a monthly premium of \$559.21 (8.00% of \$83,882.00/12). According to Table 4, Appellant Wife, age 56 living in Norfolk County during the time they were being penalized for not having insurance, could have purchased insurance for \$418 per month for the Appellant Wife's individual plan since the Appellant Spouse was enrolled in Medicare, more than the monthly amount deemed affordable from Table 3. Individual coverage was affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

Where Individual coverage was affordable through the individual market for the Appellant Wife in 2019, we need to determine if they experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08. et. seq. The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if he can show that they experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if 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 Appellants testified that they had the following expenses for basic necessities in 2019 which were approximately \$5,000 which included out of pocket dental, medicals, flights necessary to obtain medical care in another country, cremation costs. (Testimony of Appellant, Exhibit 2(a), (b)).

The evidence presented by the Appellants in this case is sufficient to establish that they experienced other issues (issues with eligibility with the Connector including a substantial premium increase until May and other financial hardship due to unexpected expenses related to family member's and out of pocket expenses related to dental and medical procedures, so as to waive the penalty for the months in question, thereby making a private health insurance premium of \$559/month unaffordable. Moreover, the importance of obtaining insurance was not lost on the Appellant as she attempted to obtain insurance during the time she was uninsured and obtained insurance in May. Accordingly, the penalty will be reduced to zero (0) months.

Accordingly, it is concluded that the Appellants did establish through substantial and credible evidence that they did experience other circumstances including a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3).



# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-578

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 16, 2020

**Decision Date:** September 21, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 12, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 21, 2020.
- Exhibit 4: Appellant's letter in support of this appeal.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 55, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Berkshire County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$45,482 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 and is being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2020 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$45,482 could afford to pay \$288 per month for health insurance. In accordance with Table 4, the Appellant age 55, living in Berkshire County, could have purchased private insurance for \$375 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
8. The Appellant testified that they are employed by a small company that does not offer access to health insurance (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$45,482 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified to having substantial living expenses in tax year 2019. The Appellant struggled to meet these expenses with their limited income. I found the Appellant credible (Exhibits 3, 4 and Appellant Testimony).
11. In tax year 2019 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (Exhibits 2, 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$45,482 could afford to pay \$288 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Berkshire County, could have purchased private insurance for \$375 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer sponsored insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$45,482 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019.

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

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-582

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 16, 2020

**Decision Date:** September 21, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 16, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 12, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on April 10, 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 turned 27 years old in November 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Barnstable County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$29,558 (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 April 2020 (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 \$29,558 could afford to pay \$103 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Barnstable County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's 2019 monthly expenses of \$2,407 included: rent-\$950; heat and electricity- \$150; telephone-\$75; car loan-\$228; car insurance-\$181; gasoline-\$108; food-\$379; internet-\$50 and student loans- \$286. The Appellant testified that their parent died in April of 2019. In addition to their living expenses, the Appellant incurred \$11,000 in funeral and probate expenses to settle their parent's affairs. The Appellant said that they struggled to meet these expenses with their limited income. The Appellant's credible testimony is supported by documents submitted with their appeal request (Exhibit 4 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant 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 \$29,558 could afford to pay \$103 per month for health insurance. According to Table 4, the Appellant, age 27, living in Barnstable County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant verified substantial monthly living expenses and testified credibly that due to their limited income they struggled to meet these expenses. In addition, the Appellant was responsible for \$11,000 in funeral and probate expenses due to the death of their parent in April 2019. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-595

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 21, 2020

**Decision Date:** September 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 21, 2020, 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—2019

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 29-years-old and is single. In 2019, she had health insurance for the entire year. (Testimony, Ex. 1)
2. The appellant is a citizen of Serbia and has been enrolled as a PhD student at a medical school there. She was accepted into a research program at a Boston hospital for 2019 on a J-1 student visa. The visa officer at the hospital advised her that the hospital's health insurance did not meet with her visa requirements and instructed her to locate a plan which did. The appellant purchased a policy from a British insurance company which was administered by a medical services group in the U.S. The plan met the requirements of her visa and included the following basic features: an overall policy maximum of \$100,000.00; a \$250.00 deductible per certificate period; and \$1,000,000.00 coverage for emergency medical evacuation and repatriation. The appellant was not aware, nor was she advised by anyone at the hospital or through

---

1

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

the visa program, that Massachusetts requires all health insurance plans to comply with minimum creditable coverage (MCC) standards. (Testimony, Ex. 1)

3. Late in 2019, the appellant became aware through conversations with colleagues and friends that all health insurance plans purchased by state residents must conform to MCC standards. Through some research, she determined that her plan was deficient because there was no coverage for preventive care. It was too late in the year to rectify the situation for 2019, but for 2020, she enrolled in her employer's MCC-compliant coverage and also remained enrolled in her other insurance plan. (Testimony, Ex. 1)
4. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03.  
<http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>

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

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019, but did not specify a ground for the appeal. She also submitted a letter with her statement (Ex.1) in which she stated in part that in preparing for 2019 as a researcher at a Boston hospital, she was advised by the visa officer that the health insurance offered by the hospital did not meet the requirements of her J-1 student visa. She further stated that she purchased coverage through a British insurance company which complied with the visa requirements, and became aware late in 2019 that her plan was deficient because it did not meet state MCC requirements. Finally, she stated that it was too late in the year to take any remedial action, but she was able to correct the situation for 2020 by purchasing two policies-one MCC-compliant plan and a second J-1 compliant plan.

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

The appellant testified credibly that she followed the instructions of her visa officer and purchased a plan that complied with the terms of her J-1 visa. She testified that late in 2019, she discovered through conversations with colleagues and friends, that Massachusetts requires all residents to obtain MCC-compliant coverage, a standard with which she was unaware until that time. She testified that she determined that the major deviation in her plan was that it did not cover preventive care. Finally, she testified that she remedied that situation for 2020 by obtaining two different plans-one that meets MCC standards and a second which meets the requirements of her visa.

The appellant submitted a Confirmation of Coverage with her appeal which lists areas of coverage including those required by her visa, such as coverage for emergency medical evacuation and repatriation. The summary was not comprehensive and did not include any information about preventive care, testing, hospitalization, prescription drug coverage and several other areas of coverage required by the state. As such, it was not possible to do a side-by-side comparison with Massachusetts requirements in order to determine where the plan deviates from state standards. Notwithstanding this lack of information, since the appellant had no knowledge of MCC issues with her plan until late 2019, there is nothing she could have done to remedy the situation at that time. Furthermore, she made a point of purchasing coverage for 2020 which did meet state MCC standards, thereby demonstrating that the mandate to obtain compliant coverage was not lost on her.

Based on the totality of the evidence, it is concluded that the appellant was a foreign research student who was unaware of state MCC requirements until late in 2019. Accordingly, her request for a waiver of the penalty is **granted** for the months in question. The determination that she is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

#### **PENALTY ASSESSED**

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

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

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-596

**Appeal Decision:** Penalty Overturned in Full

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

**Hearing Date:** September 21, 2020

**Decision Date:** September 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held by telephone on September 21, 2020, 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—2019
- 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 30-years-old, is single, and does not have children. She resided in Middlesex County, MA in 2019. She did not have health insurance in 2019. (Testimony, Ex. 2)
2. The appellant had subsidized health insurance through the Health Connector in 2018. When she prepared her 2018 tax returns, she determined that she had received more tax credits than she should have for the year and had to come up with enough money to pay back the additional credits. (Testimony)
3. The appellant was employed as a server at a restaurant in 2019. The employer offered health insurance which cost approximately \$180.00/week, an amount which she could not afford. Her income fluctuated from one pay period to the next, and in a good week, she made \$500.00. She was laid off from her job in March, 2020, and has been unemployed since then. (Testimony)
4. The appellant has been enrolled in health insurance through MassHealth since March, 2020. (Testimony)

---

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

5. The appellant reported an adjusted gross income of \$40,482.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. In 2019, the appellant had regular monthly expenses of approximately \$3550.00 for rent (\$1000.00), electricity during the winter months (\$900.00) and (\$600.00) during the summer months, cable and internet service (\$60.00), cell phone (\$60.00), automobile loan (\$120.00), automobile insurance (\$90.00), food (\$600.00) and gasoline (\$120.00). In addition, the appellant paid \$78.00/month towards repayment of a student loan. (Testimony)

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

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

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019, but did not check off a specific ground for the appeal. She also submitted a letter with her appeal in which she stated in part that although she did not suffer a hardship according to the language of the Health Connector regulations, the cost of insurance was not affordable to her in light of her monthly expenses. She further stated that she lost her job in March due to the virus, and is not in a position to come up with money to pay a penalty.

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 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the 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 2019 at a restaurant, but did not enroll in employer provided health insurance because the cost was too high. She testified that she was laid off from her job in March, 2020, and has been enrolled in health insurance through MassHealth since that time.

The evidence provided by the appellant established that her income for 2019, \$40,482.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$36,421.00 and \$42,490.00 is deemed to be able to afford a monthly premium of \$251.33 (7.45% of \$40,482.00/12). Table 4 of the Premium Schedule indicates that a 29-year-old individual (the age of the appellant in 2019) in Middlesex County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, more than the monthly amount deemed affordable from Table 3. Thus,

according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The appellant provided information which indicated that the approximate cost for an individual plan through her employer was \$720.00 per month.<sup>2</sup> Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86% or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$720.00. That cost is more than 9.86% of the appellant's projected household MAGI for 2019 (i.e. 9.86% of \$40,482.00 is \$3991.53 or \$332.63/month).<sup>3</sup> Hence, since the cost of employer insurance is more than \$332.63/month, she is considered not to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Based on the foregoing, it is concluded that since the appellant could not have afforded private or employer health insurance, her 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 2019, only and is based upon the extent of information submitted by her in this appeal.

**PENALTY ASSESSED**

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

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

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

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

---

<sup>2</sup> Since the appellant no longer works for the employer, the record was not held open for information about the terms and conditions of employer health insurance available in 2019.

<sup>3</sup> A MAGI figure was not obtained at the hearing and the record was not held open for documentation to make that calculation. It is recognized that the federal adjusted gross income (AGI) is not the same number as MAGI since the latter number starts with AGI and then adds in certain income sources such as tax-exempt interest, taxable social security and foreign earned income. See 26 USC section 36B(d)(2)(b) and 956 CMR 12.04. Notwithstanding this discrepancy, based on the appellant's testimony, the two numbers were probably very close, if not the same, in which case it is not unreasonable to use the AGI number for purposes of this calculation.

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: PA19-619

**Appeal Decision** Appeal Approved

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

**Hearing Date:** September 25, 2020

**Decision Date:** September 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 30, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated August 17, 2020

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. He lives in Suffolk County, Massachusetts.
2. Appellant work in the medical business.
3. Appellant had health insurance when he lived in Pennsylvania. He had insurance through his school, which ran from September 2018 through September 2019. Appellant provided proof of his insurance when he forwarded his appeal to the Health Connector. Appellant obtained health insurance through his employer when he moved to Massachusetts in June of 2019. Appellant had two forms of health insurance from June 2019 through September 2019.
4. Appellant does have health insurance in 2020.
5. The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under , “Other. During 2019 other circumstances, such as that you did not live in Massachusetts during your period of uninsurance.” I will hear Appellant’s appeal under this ground.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under , “Other. During 2019 other circumstances, such as that you did not live in Massachusetts during your period of uninsurance.” I will hear Appellant’s appeal under this ground.

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

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

Appellant had health insurance when he lived in Pennsylvania. He had insurance through his school, which ran from September 2018 through September 2019. Appellant provided proof of his insurance when he forwarded his appeal to the Health Connector. Appellant obtained health insurance through his employer when he moved to Massachusetts in June of 2019. Appellant had two forms of health insurance from June 2019 through September 2019.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

Number of Months Appealed: \_\_\_\_2\_\_\_\_ Number of Months Assessed: \_\_\_\_0\_\_\_\_

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-622

**Appeal Decision** Appeal Approved

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

**Hearing Date:** September 25, 2020

**Decision Date:** September 30, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

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

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

- Exhibit 1: Notice of Hearing dated August 17, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 4, 2020
- Exhibit 4: Written Statement of Appeal dated May 5, 2020

## FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-nine years old and is single. He lives in Worcester County, Massachusetts.
2. Appellant works in the auto business. The company he worked for did not offer health insurance.
3. Appellant has not had health insurance in years. He has paid the penalty in the past because it is cheaper than buying health insurance, which he states he cannot afford.
4. Appellant does not have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$3,041.00, consisting of mortgage \$1,500.00, light \$100.00, cell phone & internet \$115.00, truck \$328.00, truck insurance \$100.00, car gas \$80.00, sales tax on truck \$50.00, food \$500.00, heating fuel \$50.00, work clothes \$34.00, significant expenses, boiler \$184.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$60,139.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Worcester County for a 38 year old single person was \$286.00. The tables reflect that Appellant could afford \$400.92. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

## ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Appellant reported a federal AGI of \$60,139.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$400.92 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$286.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant has not had health insurance in years. He has paid the penalty in the past because it is cheaper than buying health insurance, which he states he cannot afford.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2018. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

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

**PENALTY ASSESSED**

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

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

OR

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

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

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

Hearing Officer

Cc: Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-638

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 23, 2020

**Decision Date:** September 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant (Primary Taxpayer) and their Spouse appeared at the hearing, which was held by telephone, on September 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 17, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated May 7, 2020.
- Exhibit 4: Appellants' letter in support of this appeal.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellants ages 54 and 56 in 2019, filed their 2019 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Essex County, MA in 2019 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$70,467 (Exhibit 2).
4. The Appellants did not have health insurance for any months in tax year 2019 and are each being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellants filed an appeal of the assessment in May 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 no dependents claimed, with an annual adjusted gross income of \$70,467 could afford to pay \$470 per month for health insurance. In accordance with Table 4, the Appellants, with one person over the age of 55, living in Essex County, could have purchased private insurance for \$836 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellants in tax year 2019.
8. The Appellant testified that they lost their job in 2018 and remained unemployed until October of 2019. The Appellant said that the COBRA insurance offered by their former employer cost \$1,600 per month and was not affordable (Exhibit 4 and Appellant Testimony).
9. The Appellant Spouse testified that they had four part-time jobs in tax year 2019 and had no access to employer sponsored health insurance from any employer (Exhibit 4 and Spouse Testimony).
10. The Appellants would not have been eligible for ConnectorCare coverage in 2019 because the Appellants' income of \$70,467 was greater than 300% of the federal poverty level, which was \$49,380 for a household of two in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
11. In tax year 2019 the Appellants did not have access to affordable health insurance through the private market, their employers, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (Exhibits 2, 3, 4 and Testimony of the Appellant and Spouse).

## **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 no dependents 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.

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 \$70,467 could afford to pay \$470 per month for health insurance. In accordance with Table 4, the Appellants, with one person over age 55, living in Essex County, could have purchased private insurance for \$836 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellants in 2019.

The Appellants did not have access to affordable employer sponsored insurance in tax year 2019. The Appellants would not have been eligible for ConnectorCare coverage in 2019 because the Appellants' income of \$70,467 was greater than 300% of the federal poverty level, which was \$49,380 for household of two 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 for both household members 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 Primary:      Number of Months Appealed:   12        Number of Months Assessed:   0  

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

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA19-641

**Appeal Decision:** Appeal Approved.

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

**Hearing Date:** September 23, 2020

**Decision Date:** September 29, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The Appellant appeared at the hearing, which was held by telephone, on September 23, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted 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 August 17, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019.

Exhibit 3: Statement of Grounds for Appeal dated May 2, 2020.

### **FINDINGS OF FACT**

The record shows, and I so find:

1. The Appellant age 30 in February 2019, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$38,202 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 and is being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May 2020 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$38,202 could afford to pay \$237 per month for health insurance. In accordance with Table 4, the Appellant age 30, living in Essex County, could have purchased private insurance for \$257 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
8. The Appellant testified that their employer did provide access to health insurance, but the cost was \$350 per month. This is more than the \$237 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019 (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$38,202 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified to having substantial living expenses in tax year 2019. The Appellant struggled to meet these expenses with their limited income. I found the Appellant credible (Exhibit 3 and Appellant Testimony).
11. In tax year 2019 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (Exhibits 2, 3 and Appellant Testimony).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$38,202 could afford to pay \$237 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Essex County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer sponsored insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$38,202 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019.

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

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

**PENALTY ASSESSED**

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

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

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

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

Cc:     Connector Appeals Unit

# Massachusetts Health Connector Appeals Unit

## FINAL APPEAL DECISION: PA181137

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

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

**Hearing Date:** September 3, 2020

**Decision Date:** September 11, 2020

### **AUTHORITY**

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

### **JURISDICTION**

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

### **HEARING RECORD**

The appellant appeared at the hearing which was held in person on September 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated March 11, 2020 by the appellant with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2018
- Exhibit 3: Notice of Hearing sent to Appellant dated August 10, 2020 for September 3, 2020 hearing

### **FINDINGS OF FACT**

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single person with one dependent claimed, was 51 years old in 2018 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Hampden County in 2018; he was homeless from March through June. When he was homeless, he lived in his car (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2018 of \$27,328 (Exhibit 2, and Testimony of Appellant).
4. Appellant had a job all year as a driver. He worked between 35 and 40 hours a week and earned \$12.75 an hour. (Testimony of Appellant).
5. Appellant had no health insurance all of 2018. He was offered health insurance through employment, but Appellant did not opt for the coverage. The insurance offered cost \$300 a month (Testimony of Appellant, Exhibit 2).
6. Appellant has been assessed a penalty for all of 2018. Appellant has appealed the assessment (Testimony of Appellant, Exhibits 1, 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and

premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.

8. According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with one dependent claimed with a Federal adjusted gross income of \$27,328 could afford to pay \$95 per month for health insurance. According to Table 4, Appellant, 51 years old and living in Hampden County, could have purchased insurance for \$411 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2018, Appellant, earning less than \$36,180 per year, would have been eligible for the ConnectorCare program based upon income. Appellant would also have been eligible if the insurance offered him through his job had been unaffordable for him (Table 2 of Schedule HC-2018, Exhibit 2, 956 CMR 12.00et seq.).

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

11. Appellant was homeless for four months in 2018, March through June (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for utilities during 2018 (Testimony of Appellant).

## **ANALYSIS AND CONCLUSIONS OF LAW**

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

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

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

According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with one dependent claimed with a Federal adjusted gross income of \$27,328 could afford to pay \$95 per month for health insurance. According to Table 4, Appellant, 51 years old and living in Hampden County, could have

purchased insurance for \$411 per month for a plan for an individual. Insurance on the individual market was not affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 2.

Appellant had the same job all of 2018. He was offered health insurance through employment. The cost to the appellant would have been \$300 a month. According to Schedule HC for 2018, Table 3, this coverage would not have been affordable for the appellant. He was deemed able to afford only \$95 a month. See the testimony of the appellant which I find to be credible. No affordable health insurance was available to the appellant through his job.

Appellant was income-eligible for ConnectorCare coverage, earning less than \$36,180, the income limit for an individual. However, he might not have been eligible if the coverage he was offered through employment was deemed affordable for him according to standards set by the Patient Protection and Affordable Care Act. The ConnectorCare coverage, which is subsidized in part by an advance premium tax credit, is available to individuals who have access to insurance through employment only if the offered insurance is deemed unaffordable. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2018 is less than 9.78% of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f) and 26 CFR Section 1.36B-2.

9.78% of the appellant's modified adjusted gross income of \$27,328 equals \$2,672. This amount divided by twelve equals \$223, the amount the appellant is deemed able to afford according to the Affordable Care Act each month. Coverage through employment cost \$300 per month. The coverage was deemed unaffordable pursuant to the Affordable Care Act. The appellant was therefore, eligible for ConnectorCare coverage because he was eligible for an advance premium tax credit. See Exhibit 2, the testimony of the appellant which I find to be credible, Table 2 of Schedule HC for 2018, and 956 CMR 12.00 et.seq.

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

Appellant testified that he was homeless for four months, March through June, in 2018. During these months, he lived in his car. I find this testimony to be credible. Based upon these facts, I determine that the appellant had a serious financial hardship such that the cost of coverage was unaffordable for him. See 956 CMR 6.08 (1)(a) which provides that homelessness constitutes a financial hardship. Appellant's penalty is fully waived because of financial hardship.

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

#### **PENALTY ASSESSED**

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

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

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

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

CC. Connector Appeals Unit

Hearing Officer

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