

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: January 10, 2017

Decision Date: April 10, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 10, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was left open until January 24, 2017, for the Appellant to submit additional documentary evidence. On January 17, 2017, the Appellant submitted additional documentary evidence, and the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 5/12/16 Appeal (5 pages)
- Exhibit 3: 11/16/16 Default et al. (7 pages)
- Exhibit 4: 12/8/16 Notice of Hearing (4 pages)
- Exhibit 5: 4/16/15 60-Day Notice to Quit Tenancy/Vacate Premises

FINDINGS OF FACT

Massachusetts Health Connector Appeals Unit

The record shows, and I so find:

1. The Appellant appealed from the assessment of a five-month penalty against her on her 2015 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$29,215. The Appellant resided in Suffolk County in 2015. The Appellant turned fifty-one years old in November 2015. (Exhibit 1)
3. The Appellant had health insurance coverage in 2015, only in September, October, November, and December. (Exhibit 1; Appellant's testimony)
4. The Appellant submitted her appeal to DOR on May 12, 2016. In the appeal, the Appellant checked off, as the grounds for her appeal, that: "During 2015, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice." (Exhibit 2)
5. At the start of 2015, the Appellant was working in a dental office. Her employer did not offer health insurance coverage. (Appellant's testimony)
6. By letter dated April 16, 2015, "RE: 60-Day Notice to Quit," the Appellant's landlord notified her that she had to vacate her rental unit on or before July 1, 2015,
7. In May 2015, the Appellant went to work for another dental office that offered better pay and benefits. Her new employer offered health insurance coverage, following a three-month waiting period. The Appellant was expecting to get coverage in August 2015, but her manager was out-of-country at that time, on an extended vacation, so her coverage did not begin until September 1, 2015. (Appellant's testimony)
8. In September 2015, the Appellant injured herself at home, cutting off part of a finger. The Appellant lost her job as a result. (Appellant's testimony)
9. The Appellant's monthly basic expenses in 2015 included: \$1,400, rent; \$250, utilities; \$300, food; \$150, cable; \$40, phone; \$100, clothing; and, \$72, T pass, for a total of \$2,312/monthly, and \$27,744 for the year. (Appellant's testimony; Exhibit 2)
10. The Appellant never applied to the Health Connector for health insurance coverage in 2015. (Appellant's testimony)
11. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since her AGI for 2015 was less than \$35,010 for a family of one.
12. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 4.85% of her AGI for health insurance in 2015, based on her AGI and single tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$119 for health insurance coverage in 2015.

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13. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for herself in the private market in 2015 for a monthly premium of \$297, based on her county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, I credit the Appellant’s testimony that she made a good faith effort to obtain health insurance coverage in 2015, under difficult financial circumstances. While the Appellant had modest basic expenses, except for her rent, the Appellant had very limited income left after paying for necessities in 2015. During the first few months of the year, the Appellant struggled to make ends meet, leading to receiving the eviction notice from her landlord in April 2015. Under these circumstances, the Appellant was in no position to shop for health insurance coverage and take on any additional expense. However, in May 2015, the Appellant was successful in finding a job with better pay and benefits, including employer-sponsored health insurance coverage after a three-month waiting period. The Appellant enrolled in her employer’s coverage as soon as she could, and the coverage went into effect on September 1, 2015.

Therefore, I conclude that health insurance that provided minimum creditable coverage was not affordable for the Appellant from January to August 2015, because she experienced financial hardship, under 956 CMR 6.08(1)(a) and (1)(e).

Accordingly, the Appellant’s five-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

PENALTY ASSESSED

Number of months appealed: 5

Number of months assessed: 0

Massachusetts Health Connector Appeals Unit

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2015 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 2015.

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: January 10, 2017

Decision Date: April 11, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 10, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 5/26/16 Appeal (19 pages)
- Exhibit 3: 10/18/16 Notice of Hearing (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a four-month penalty against her on her 2015 state income tax return. (Exhibit 1)

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2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$30,094. The Appellant resided in Franklin County in 2015. The Appellant turned fifty-two years old in December 2015. (Exhibit 1)
3. The Appellant submitted her appeal to DOR on May 26, 2016. In her appeal, the Appellant indicated that she could not afford health insurance after she lost her job in 2015. (Exhibit 2)
4. The Appellant had health insurance coverage through her employer during the first five months of 2015. Her employer laid off the Appellant at the beginning of June 2015. As a result, the Appellant's insurance coverage through her employer terminated at the end of May 2015. The Appellant declined the COBRA coverage that would have cost her \$600 monthly. (Appellant's testimony)
5. The Appellant had accumulated over \$40,000 in debt from when she had last been unemployed, for thirteen months, and was still paying this off when she was laid off in June 2015. (Appellant's testimony)
6. The Appellant has been diagnosed with diabetes and high blood pressure, among other conditions, and takes four different medications regularly for treatment. (Appellant's testimony)
7. The Appellant applied for unemployment benefits and began receiving a weekly UI check of \$312 in July. When she was employed, the Appellant's weekly take-home check had been \$650. (Appellant's testimony)
8. The Appellant applied to the Health Connector for coverage. The coverage would have cost her \$78 monthly, and the Appellant decided that she could not afford to pay that much. (Appellant's testimony)
9. The Appellant's monthly basic expenses in 2015 included: \$1,241, mortgage payment; \$74, home insurance; \$25, utilities; \$300, food; \$50, phone; \$120, cable; \$189, car payment; \$180, gas; \$25, car m&r; \$47, car insurance; and, \$217, debt-consolidation payments (still owes \$16,000); and, \$200, medication, for a total of \$2,668/monthly for 2015 basic expenses (or \$32,016 for the year). (Appellant's testimony)
10. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since her AGI for 2015 was less than \$35,010 for a family of one.
11. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 4.85% of her AGI for health insurance in 2015, based on her AGI and single tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$121 for health insurance coverage in 2015.
12. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for himself in the private market in

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2015 for a monthly premium of \$301, based on her county of residence and age in 2015.

13. The Appellant did not find new employment until February 2016. (Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, the Appellant has established through credible testimony and supporting documentation that she could not afford to pay for health insurance coverage during the remainder of 2015, after she lost her job and health insurance coverage in June 2015. When she lost her job at the beginning of June 2015, she did not receive any income for one month, until she started receiving in July a weekly UI check of less than half of what she had been taking home when she was employed. The Appellant would have struggled to pay for basic necessities after losing her job, even if she had not had the additional on-going burden of making weekly payments on debt that she had accumulated during her last period of unemployment. In paying her basic monthly expenses from June 2015 through December 2015, the Appellant had virtually no money left over to pay for health insurance coverage at any price.

Therefore, I conclude that health insurance coverage was not affordable to the Appellant in 2015, because she experienced extreme financial hardship, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s four-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

PENALTY ASSESSED

Number of months appealed: 4

Number of months assessed: 0

Massachusetts Health Connector Appeals Unit

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2015 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 2015.

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

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full

Penalty Upheld

Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: November 17, 2016

Decision Date: April 14, 2017

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 November 17, 2016. 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

Exhibit 2: Statement of Grounds for Appeal - 2015 (May 9, 2016)

Exhibit 2A Typewritten addendum

Exhibit 2B: Appellant's passport

Exhibit 3: Final Appeal Decision (PA14-907) (March 18, 2016)

Exhibit 4: Notification of Hearing (October 18, 2016)

FINDINGS OF FACT

CONNECTOR APPEALS UNIT

The record shows¹, and I so find:

1. During 2015, the appellant was 27/28 and single with no dependents. The appellant lived and worked in the Philippines and used their parents' address as a mailing address.² The appellant made one trip to the United States during 2015, from June 10 to July 1. (Testimony & Exhibits 2A & 2B)
2. During 2015, the appellant had health insurance in the Philippines but not in Massachusetts.
3. The appellant filed their 2015 income tax returns (federal and Massachusetts) as single with no dependents. The appellant's annual adjusted gross income was \$36,320. The appellant reported on their Schedule HC, filed with their 2015 income tax return, that they had no health insurance that complied with Massachusetts law, and they were assessed a 12-month penalty. (Exhibit 1)
4. The appellant filed a Statement of Grounds for Appeal - 2015, dated May 9, 2016, stating as the ground for appeal "Other." The appellant submitted an accompanying written statement setting forth the circumstances described above, as well as a copy of the appellant's passport with stamps showing travel to and from the Philippines. (Exhibits 2, 2A & 2B)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply because they were living outside Massachusetts. The appellant had health insurance where they were living, in the Philippines. I conclude that the penalty 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 2015 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 2015.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

¹ The findings are all taken from the appellant's testimony, unless an exhibit is specifically cited.

² Although it is technically not the correct usage, "they," "them" etc. will be used to refer to the appellant rather than "he," "him" etc. or "she," "her" etc. to help maintain the confidentiality of the appellant's identity.

CONNECTOR APPEALS UNIT

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.

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full

Penalty Upheld

Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: November 17, 2017

Decision Date: April 21, 2017

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants are a married couple (Husband and Wife). Both of them appeared at the hearing, which was held by telephone on November 17, 2016. The hearing record consists of the appellants' testimony and the following documents which were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC

Exhibit 2: Statement of Grounds for Appeal - 2015 (May 9, 2016)

Exhibit 2A: Supporting Statement (May 9, 2016)

Exhibit 2B: Front cover of Member Booklet

Exhibit 2C: Page 1 of Massachusetts Application for Health and Dental Coverage and Help Paying Costs (rec'd August 25, 2016 by Massachusetts Enrollment Center)

Exhibit 2D: Fax cover sheet to MassHealth (April 13, 2016)

Exhibit 3: Notification of Hearing (October 18, 2016)

FINDINGS OF FACT

CONNECTOR APPEALS UNIT

The record shows¹, and I so find:

1. During 2015, Husband was 38/39 and Wife was 41/42. They lived in Plymouth County, Massachusetts.
2. In September 2014, the appellants were both injured in a motor vehicle accident. Wife was out of work until February 2015 and was subsequently laid off in mid-May. She had health insurance through her employer, however, until July 2015.
3. Husband did not work at all during 2015 because of back problems. His health care needs resulted from the accident mentioned above and were covered through motor vehicle insurance until the summer. Husband had had MassHealth on a \$0 premium plan prior to 2015 and thought he was still covered by it (although he wasn't using it), but he learned in July that his MassHealth coverage had terminated. The appellants had moved in December 2012 and reported the move to MassHealth, but apparently renewal documents were not delivered in 2013. Husband was never told by a doctor's office, prior to July 2015, that he had no MassHealth coverage when he went for treatment. He would have re-enrolled in MassHealth had he known that his coverage had terminated. (Testimony & Exhibit 2A)
4. In August 2015, Wife submitted an application for MassHealth for both the appellants, first online and then in person, but learned in December that no application was on file. She then reapplied online, and their coverage began in December 2015. They tried but were unable to make the coverage retroactive to August. (Testimony & Exhibits 2A, 2B & 2C)
5. The appellants filed their 2015 income tax return as Married Filing Joint with no dependents. Their combined annual adjusted gross income was \$25,103. They reported on their Schedule HC, filed with their 2015 income tax return, that Husband had health insurance only during December and that Wife had health insurance only from January to July and in December. Husband was assessed an eight-month penalty, and Wife was assessed a one-month penalty, for a total of nine months. (Exhibit 1)
6. The appellants filed a Statement of Grounds for Appeal - 2015, dated May 9, 2016, stating as the ground for their appeal "Other," and adding "MassHealth lost original application - dated 8/25/16 (proof of application provided) - additional info to follow." They also submitted a very, very detailed chronology of their circumstances, as summarized above. (Exhibits 2 & 2A)

ANALYSIS AND CONCLUSIONS OF LAW

Mass.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.

¹ The findings are all taken from the testimony, unless an exhibit is specifically cited.

CONNECTOR APPEALS UNIT

Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to them because they attempted to apply for MassHealth but their application was lost.

Appellants were uninsured for only part of the year. Husband did not have insurance in the months of January to November, a total of 11 months, and Wife did not have insurance in the months of August to November, a total of 4 months. According to Mass.G.L. c. 111M, §2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. This 63-day gap in coverage is interpreted under Administrative Bulletin 03-11: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, to be three months. As a result, gaps of three months are not subject to penalty. Thus, Husband is appealing the penalty of eight months and Wife is appealing the penalty of one month, for a total of nine months.

Turning to Wife's situation first, she had employer-sponsored health insurance until July and MassHealth coverage in December. She submitted an application for MassHealth in August, but the application was lost. Husband, on the other hand, had no health insurance until December, when their MassHealth coverage began. He did not realize that his MassHealth coverage had terminated prior to the beginning of 2015, since he was relying on motor vehicle insurance and, prior to 2015, had never been told at a doctor's office that he had no MassHealth coverage.

Wife submitted extremely detailed notes of the appellants' dealings with MassHealth, together with some backup documentation, so I have found her testimony credible about the issues they encountered. Accordingly, based on the foregoing circumstances, I do not fault the appellants for their failure to have health insurance during part of 2015, and I conclude that the penalty should be waived in full.

PENALTY ASSESSED

Number of Months Appealed: 9 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 2015 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 2015.

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.

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full

Penalty Upheld

Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: November 17, 2017

Decision Date: April 21, 2017

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellants are a married couple (Husband and Wife). They both appeared at the hearing, which was held by telephone on November 17, 2016, with the assistance of an interpreter. The hearing record consists of the appellants' testimony and the following documents which were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC

Exhibit 2: Statement of Grounds for Appeal - 2015 (May 20, 2016)

Exhibit 2A: Letter from Husband

Exhibit 2B: Email regarding Husband's employer's open enrollment period for health insurance, with handwritten note by Husband

Exhibit 2C: Form MA 1099-HC (2015)

Exhibit 2D: Form 1095-C (2015)

Exhibit 3: Notification of Hearing (October 18, 2016)

CONNECTOR APPEALS UNIT

FINDINGS OF FACT

The record shows¹, and I so find:

1. Husband came to the United States in 2011 to study in Minnesota. He came to the Boston area in 2014 to work at a local college (the College) in a non-faculty position as a graphic designer. He continued to work there during 2015. Wife came to the United States in October 2014 on an H4 visa, which did not permit her to work. (Testimony & Exhibit 2A)
2. Husband enrolled in health insurance through the College in August 2014, and he was covered throughout 2015. He discovered when he did his taxes in January 2015 that Wife was not covered under his plan, although he had thought it covered the entire household. He asked human resources to add Wife to his health insurance plan, but he was told that he had missed the open enrollment period in the fall. He thought health insurance in the United States was available only through employers, so he did not explore any alternatives for Wife. He enrolled Wife in the College plan during the next open enrollment period, and her coverage started in January 2016. (Testimony & Exhibits 2A & 2B)
3. The appellants filed their 2015 income tax return as Married Filing Joint with no dependents. Their combined annual adjusted gross income was \$46,918. They reported on their Schedule HC, filed with their 2015 income tax return, that Husband had health insurance during all of 2015 and that Wife had no health insurance during 2015. Accordingly, they were assessed a 12-month penalty. (Exhibit 1)
4. The appellants filed a Statement of Grounds for Appeal - 2015, dated May 20, 2016, stating as the ground for their appeal that during 2015, “[they] purchased health insurance that did not meet minimum creditable coverage standards because that is what [Husband’s] employer offered, and [they] felt that [their] circumstances prevented [them] from buying other insurance that met the requirements.” They also submitted a typewritten letter outlining the circumstances described above. I find that the quoted ground indicated on the Statement is not applicable, but that the attached letter sets forth the actual basis for appeal. (Exhibits 2 & 2A)

ANALYSIS AND CONCLUSIONS OF LAW

Mass.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.

Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to them because they did not realize that Wife was not included on Husband’s plan, and they were then prevented from adding her because of the timing of the College’s open enrollment period.

¹ The findings are all taken from the appellant’s testimony, unless an exhibit is specifically cited.

CONNECTOR APPEALS UNIT

The appellants were relatively new to both the United States and Massachusetts, and they made some false assumptions about the scope of health insurance coverage here. When they learned of their mistake, however, they enrolled Wife during the next open enrollment period. Based on the circumstances described, I conclude that they should be forgiven for not enrolling Wife in health insurance during 2015, and that the penalty should be waived in full.

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 2015 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 2015.

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.

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full

Penalty Upheld

Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: November 17, 2016

Decision Date: April 21, 2017

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 November 17, 2016. 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

Exhibit 2: Statement of Grounds for Appeal - 2015 (May 13, 2016)

Exhibit 3: Notification of Hearing (October 18, 2016)

CONNECTOR APPEALS UNIT

FINDINGS OF FACT

The record shows¹, and I so find:

1. During 2015, the appellant was 31/32, single and lived alone in Hampshire County.
2. During 2015, the appellant had a full-time job with a national fast-food restaurant from January to July. The appellant quit in June, and their health insurance continued until July.² The appellant paid \$20-35 biweekly for the health insurance. They were told by their employer that the health insurance met Massachusetts minimum creditable coverage (MCC) standards, but did not receive any forms after the end of the year indicating that they were enrolled in MCC-compliant health insurance.
3. After the appellant left this job, they were unemployed until September, when they went to work part-time for a large retail chain. The appellant was transferred to full-time in December, and enrolled in the chain's health insurance plan starting in January 2016 at a cost of \$40 biweekly. The appellant is still covered by this plan. The appellant did not enroll in health insurance while they were part-time because they did not believe it was affordable.
4. The appellant filed their 2015 income tax return as single with no dependents. The appellant's annual adjusted gross income was \$19,872. The appellant reported on their Schedule HC, filed with their 2015 income tax return, that the appellant had no compliant health insurance during 2015, and the appellant was assessed a 12-month penalty. (Exhibit 1)
5. The appellant filed a Statement of Grounds for Appeal - 2015, dated May 13, 2016, stating as the ground for appeal "Other." The appellant testified at the hearing that, by "Other," they meant that they were part-time and unemployed for part of the year. (Testimony & Exhibit 2)
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 and 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2015. 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 Commonwealth Care health insurance program. See Mass.G.L. c. 118H, §3(a)(1). Tables 5 and 6 set forth the tax penalties in effect for 2015.
7. Health insurance is potentially available through three sources in Massachusetts: (1) a government-subsidized program; (2) an employer-sponsored health plan; or (3) a private health plan for individuals. Looking at government-subsidized insurance first, the appellant was income-eligible for ConnectorCare. Turning to employer-subsidized health insurance, the appellant enrolled in it

¹ The findings are all taken from the appellant's testimony, unless an exhibit is specifically cited.

² Although it is technically not the correct usage, "they," "them" etc. will be used to refer to the appellant rather than "he," "him" etc. or "she," "her" etc. to help maintain the confidentiality of the appellant's identity.

CONNECTOR APPEALS UNIT

when they were working full-time, but unbeknownst to the appellant, their 2015 plan was not MCC-compliant. Looking finally at private health plans, the appellant was deemed able to afford \$45 per month for health insurance. A private health plan for a 31/32 year old in Hampshire County would have cost \$201 per month for an individual, and accordingly was not affordable. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply because health insurance was not affordable while the appellant was unemployed and working part-time.

Appellant believed they were enrolled in MCC-compliant health insurance from January to July, at a cost that exceeded what was affordable pursuant to the above Tables. They next enrolled in employer-sponsored health insurance in December, with coverage starting January 2016. In the interim, the appellant was unemployed and working part-time. The appellant was income-eligible for ConnectorCare. During the period January to July, the appellant did not know, through no fault of their own, that their employer-sponsored health insurance was non-compliant, and so they did not investigate other plans. From August to December, they did not believe health insurance was affordable. Since the appellant enrolled in health insurance as soon as they transferred to full-time and became eligible, and are still enrolled, I will give them the benefit of the doubt and waive the penalty in full.

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 2015 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 2015.

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: January 10, 2017

Decision Date: April 10, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 10, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 5/16/16 Appeal (18 pages)
- Exhibit 3: 12/24/14 Final Appeal Decision (5 pages)
- Exhibit 4: 10/18/16 Notice of Hearing (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of an eight-month penalty against him on his 2015 state income tax return. (Exhibit 1)

Massachusetts Health Connector Appeals Unit

2. The Appellant's filing status in 2015 was Married Filing Separate with one dependent and a family size of three. The Appellant's federal AGI in 2015 was \$32,908. The Appellant resided in Norfolk County in 2015. The Appellant turned thirty-six years old in October 2015. (Exhibit 1)
3. The Appellant had health insurance coverage in 2015, only in January. (Exhibit 1; Appellant's testimony)
4. The Appellant submitted his appeal to DOR on May 16, 2016. In the appeal, the Appellant checked off, as the grounds for her appeal, that: "During 2015, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2)
5. The Appellant recently re-married and has a newborn from this relationship. The Appellant also has two children from his prior marriage. The Appellant separated from his first wife at the end of 2013, and the Appellant pays child support for his two children. (Appellant's testimony; Exhibit 2)
6. The Appellant was employed during all of 2015, working for the same employer all year. His employer offered health insurance coverage at a bi-weekly cost of \$56 (or, \$121.33/monthly). The Appellant did not enroll because he thought that he could not afford to pay this much, even with the two raises that he got during 2015. (Appellant's testimony)
7. The Appellant's monthly basic expenses in 2015 included: \$1,056, rent; \$75, car insurance; \$80, gas; \$85, car M/R; \$200, food; \$45, phone; \$45, electric; \$25, laundry; \$63, back taxes; \$810, child support; \$100, clothing; \$80, cable; \$20, debt-collection agreement; and, \$75, credit card payment, for a total of \$2,759/monthly, and \$33,108 for the year. (Appellant's testimony; Exhibit 2)
8. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since his AGI for 2015 was less than \$47,190 for a family of two.
9. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 5.95% of her AGI for health insurance in 2015, based on his AGI and Married Filing Separate with one dependent tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$163 for health insurance coverage in 2015.
10. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for himself in the private market in 2015 for a monthly premium of \$209, based on his county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts Health Connector Appeals Unit

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, the Appellant has established through credible testimony and documentary evidence that he had struggled throughout 2015 to make ends meet. Although the 2015 Schedule HC Tables indicate that he could have afforded to pay up to \$209 for coverage in 2015 and that he was income-eligible for government-subsidized health insurance in 2015 at a cost of \$163/monthly, the Appellant had extraordinary monthly expenses, including child support for two kids, debt repayment, and back taxes. This left the Appellant with no extra money at all to pay for health insurance coverage in 2015, whether \$121.33/monthly through his employer or \$163/monthly through the Health Connector.

Therefore, I conclude that health insurance that provided minimum creditable coverage was not affordable for the Appellant from February 2015 to December 2015, because he experienced financial hardship, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s eight-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

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 2015 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 2015.

Massachusetts Health Connector Appeals Unit

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: January 10, 2017

Decision Date: April 12, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 10, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 5/19/16 Appeal (10 pages)
- Exhibit 3: 10/19/16 Notice of Hearing (4 pages)
- Exhibit 4: 10/19/16 Notice of Hearing – returned (5 pages)
- Exhibit 5: 12/8/16 Notice of Hearing (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

Massachusetts Health Connector Appeals Unit

1. The Appellant appealed from the assessment of a seven-month penalty against her on her 2015 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$40,480. The Appellant resided in Middlesex County in 2015. The Appellant turned twenty-seven years old in September 2015. (Exhibit 1)
3. The Appellant submitted her appeal to DOR on May 19, 2016. In her appeal, the Appellant indicated that, in 2015, she could not have afforded health insurance coverage that met minimum creditable coverage standards. (Exhibit 2)
4. Up until she turned twenty-six years old in 2014, the Appellant had health insurance coverage through her mother. (Appellant's testimony; Exhibit 1)
5. The Appellant applied to the Health Connector for health insurance coverage for herself during the 2015 open enrollment period. The Appellant enrolled in a plan with a monthly premium of some amount between \$120 and \$130. (Appellant's testimony)
6. In 2015, there were four ways to make premium payments to the Health Connector: 1) sending a check or money order by mail; 2) sending payment from a bank; 3) paying online at MAhealthconnector.org; and, paying in person as Customer Service in Boston or Worcester. (Administrative Notice of "Making Health Connector Payments – Individuals and Families")
7. The Appellant had health insurance coverage in 2015 only in January and February. The Health Connector terminated the Appellant's coverage, effective March 1, 2015, due to the Appellant failing to pay her premium. (Appellant's testimony; Exhibit 1)
8. The Appellant's appendix burst on August 19, 2015. As a result, the Appellant was hospitalized and underwent surgery, incurring hospital costs of \$9,896 and anesthesia costs of \$1,420. The Appellant was responsible in full for these bills. Both bills went overdue, and the hospital bill was "seriously overdue" by the end of 2015. (Exhibit 2; Appellant's testimony)
9. According to Table 2 of the Schedule HC 2015, the Appellant was not eligible for government-subsidized insurance in 2015, since her AGI for 2015 was more than \$35,010 for a family of one.
10. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 7.20% of her AGI for health insurance in 2015, based on her AGI and single tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$242 for health insurance coverage in 2015.
11. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for herself in the private market in

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2015 for a monthly premium of \$144, based on her county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

The Appellant testified that she could have afforded to pay for the premium for 2015 coverage, but that the Health Connector was not accepting her online payment; that she called the Health Connector five to ten times to get it fixed, but that her online payment still would not go through; that she thought the payments for March, April, and May 2015 had gone through, until the Health Connector told her otherwise in May or June. I do not find this testimony credible. Typically, when making an online payment for anything, confirmation of a successful transaction or a problem with the transaction is sent immediately online or soon afterwards by email. It is not credible that the Appellant could have gone until May 2015 thinking that her monthly online payments had gone through. Moreover, the Appellant could have sent her monthly payments by mail or directly from her bank, if online payment was not working for her and she wanted keep her coverage.

Nevertheless, I recognize that the Appellant experienced a medical emergency in August 2015 and, as a result, incurred over \$11,316 in out-of-pocket expenses for treatment in August. These expenses amounted to nearly 28% of the Appellant’s 2015 AGI. This very significant additional financial burden caused the Appellant extreme hardship for the remainder of 2015.

Therefore, I conclude that health insurance coverage was not affordable to the Appellant in 2015, because she experienced extreme financial hardship in 2015, under 956 CMR 6.08(1)(c).

Accordingly, the Appellant’s seven-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

Massachusetts Health Connector Appeals Unit

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 2015 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 2015.

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

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: xx Penalty Overturned in Full _____ Penalty Upheld
 ___ Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: November 18, 2016

Decision Date: February 10, 2017

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 November 18, 2016. 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: Appeal Case Information from Schedule HC 2015
- Exhibit 2: Statement of Grounds for Appeal-2015 signed and dated by Appellant on May 10, 2016 with attachment
- Exhibit 3: Notice of Hearing sent to Appellant dated October 18, 2016
- Exhibit 4: Electricity company (Eversource) Final Notice of Termination addressed to Appellant, dated August 26, 2015

CONNECTOR APPEALS UNIT

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2015 Massachusetts tax return as a single person with no dependents claimed, was 56 years old for most of 2015 (Exhibit 1).
2. Appellant lived in Barnstable County, MA in 2015 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2015 was \$62,850 (Exhibit 1).
4. Appellant was employed all year at the same job. Appellant worked at least 40 hours a week and was paid \$28 an hour (Testimony of Appellant).
5. Appellant was not offered subsidized health insurance through work. The appellant had access to coverage, but Appellant would have had to pay 100% of the cost, \$700 to \$800 a month (Testimony of Appellant).
6. Appellant tried to find insurance through the Connector. The coverage would have cost between \$300 and \$400 a month. Appellant felt the coverage was too expensive (Testimony of Appellant).
7. Appellant had insurance from January through March, 2015. Appellant has been assessed a tax penalty for six months, July through December; the appellant has appealed this assessment. As of the date of this hearing, Appellant was still uninsured (Exhibits 1, 2, Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2015 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 2015. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2015.
9. According to Table 3 of Schedule HC for 2015, an individual with no dependents with an adjusted gross income of \$62,850 could afford to pay \$421 per month for health insurance. According to Table 4, Appellant, age 56 and living in Barnstable County, could have purchased insurance for \$356 per month.
10. Private insurance was affordable for the appellant in 2015 (Schedule HC for 2015).

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11. According to Table 2 of Schedule HC for 2015, Appellant, earning more than \$35,010 per year would have been ineligible for the Connector Care program (Table 2 of Schedule HC-2015).

12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2015 (Testimony of Appellant).

13. Appellant did not fall more than thirty days behind in rent payments in 2015, though Appellant made late payments (Testimony of Appellant).

14. Appellant received shut-off notices for electricity during 2015. In August, Appellant received a "Final Notice of Termination" (Testimony of Appellant, Exhibit 4).

15.) Appellant had the following monthly expenses for basic necessities in 2015: rent-\$650; electricity-\$200 on average; heat (gas)-\$100, and as high as \$600 in December; telephone-\$150; food-\$600; gas for car-\$160; car insurance-\$120; car payment-\$320; clothing for Appellant-\$90. The appellant had to pay \$860 a month for student loans. The appellant also supported the appellant's adult son by giving him at least \$500 a month all of 2015 (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 2015 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.

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Appellant had health insurance from January through March, 2015. Appellant has been assessed a tax penalty for six months only because the appellant is entitled to a three-month grace period after the loss of coverage. The appellant appealed this assessment. Exhibits 1 and 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 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 2015, an individual with no dependents with an adjusted gross income of \$62,850 could afford to pay \$421 per month for health insurance. According to Table 4, Appellant, age 56 and living in Barnstable County, could have purchased insurance for \$356 per month. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1. Private insurance was affordable for the appellant. Appellant could have applied for and obtained insurance within 60 days of the loss of health insurance coverage (a qualifying life event). See 45 Code of Federal Regulations 155.420.

Appellant had no access to affordable employer-sponsored insurance. Appellant's employer agreed to arrange access to coverage, but the appellant would have had to pay the full premium, between \$700 and \$800 a month, significantly more than the appellant was deemed able to afford. See Table 4 of Schedule HC for 2015 and the testimony of the appellant which I find credible.

According to Table 2 of Schedule HC for 2015, Appellant, earning more than \$35,010 per year would have been ineligible for the Connector Care program. See Table 2 of Schedule HC-2015. There is no evidence in the record that Appellant had any other government sponsored insurance available to the appellant.

Since affordable health insurance was available to the appellant through the Connector, we need to determine whether pursuant to 956 Code of Massachusetts Regulations 6.08, a hardship exception is applicable in this matter.

Pursuant to 956 CMR 6.08(1)(b), an individual who received a shut-off notice for a utility or who had utilities shut off is deemed to have experienced a financial hardship so that insurance was not affordable for the individual. Appellant testified, and I find the testimony credible, that the Appellant received shut-off notices for electricity during 2015. Exhibit 4, a final notice of termination sent to the appellant by Eversource, corroborates the testimony of the appellant.

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Based the facts summarized above, Appellant's penalty is waived. Appellant who received shut-off notices for a utility experienced a hardship such that insurance was unaffordable. Since the penalty is waived pursuant to 956 CMR 6.08(1)(b), there is no need to examine other grounds for a waiver.

Appellant should note that any waiver granted here is for 2015 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: 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 2015.

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

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: Penalty Overturned in Full Penalty Upheld
 Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: December 2, 2016 **Decision Date:** February 3, 2017

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 December 2, 2016. The procedures to be followed during the hearing were reviewed with the Appellant and the Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC 2015
- Exhibit 2: Written Statement of Appellant dated June 20, 2016
- Exhibit 3: Notice of Hearing sent to Appellant dated November 7, 2016
- Exhibit 4: Final Appeal Decision of Appeal PA13-1389 dated November 21, 2014

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FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant was 36 years old in 2015. (Testimony of Appellant)
2. The Appellant filed a 2015 Massachusetts Tax Return as married filing jointly claiming no dependents. (Testimony of Appellant)
3. The Appellant lived in Middlesex County Massachusetts in 2015. (Testimony of Appellant)
4. The Appellant's tax household Adjusted Gross Income for 2015 was \$47,565. (Testimony of Appellant)
5. The Appellant was not employed in 2015. (Testimony of Appellant)
6. The Appellant's spouse worked and had health insurance through an employer sponsored plan in 2015. (Testimony of Appellant)
7. The Appellant's spouse paid \$80 per month for insurance. (Testimony of Appellant)
8. The Appellant's spouse was not assessed a penalty in 2015. (Exhibit 1)
9. The Appellant did not enroll in the spouse's plan because it would have cost \$280 for a family plan. (Testimony of Appellant)
10. The Appellant was assessed a 12-month penalty in 2015. (Exhibit 1)
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2015 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 2015. Table 1 sets forth income at 150% of the federal poverty level and Table 2 sets forth income at 300% of the federal poverty level which is the income eligibility standard for the government subsidized Commonwealth Care health insurance program. Tables 5 and 6 set forth the tax penalties for 2015.
12. According to Table 3 of Schedule HC for 2015, Appellant, married with no dependents with an adjusted gross income of \$47,565 was deemed able to pay

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\$285 for health insurance. According to Table 4, Appellant aged 36 and living in Middlesex County, could have purchased individual private insurance for \$209 per month or \$418 for the Appellant and Spouse.

13. In 2015, Appellant had the following monthly expenses for basic living necessities: rent-\$2,193 (includes all utilities); phone-\$100; transportation costs-\$84; car rental-\$150; food-\$700; out of pocket medical-\$50; health insurance premium-\$80; clothing-\$100; entertainment-\$100; travel to home country -\$250. (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 insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. The Connector’s regulation provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08. Appellant had no health insurance in 2015 and was assessed a 12 month penalty, which is now on appeal. The Appellant’s spouse had health insurance and was not assessed a penalty.

To determine if the tax 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 of hardship as defined in 956 CMR 6.08.

Private insurance was not affordable to the Appellant in 2015. According to Tables 3 and 4 of Schedule HC 2015, Appellant with an adjusted gross income of \$47,565 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant, who was 36 years old in 2015, lived in Middlesex County, and filed taxes jointly as a married person with no dependents, could afford to pay \$285 for insurance on the private market. The Appellant’s tax household was already paying \$80 monthly for the Appellant’s spouse’s health insurance, leaving the Appellant with a balance of \$205. Based on the 2015 Affordability Information Sheet, individual health insurance would have cost the Appellant \$209 per month.

The Appellant’s Federal Adjusted Gross Income of \$47,565 in 2015 exceeded 300% of the Federal Poverty Level, making the Appellant ineligible for ConnectorCare.

The Appellant, however, had access to employer’s sponsored health insurance through the spouse’s plan. Appellant testified, and I find the testimony to be credible, that the cost of the insurance offered by the spouse’s employer was \$280 per month for a

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family plan. Appellant was deemed to be able to afford \$285 per month. See Tables 3 and 4 of Schedule HC-2015.

Because affordable insurance was available to the Appellant, the Appellant is subject to the tax penalty unless the Appellant demonstrates a hardship. 956 CMR 6.07(1)(2008) To prevail on a hardship appeal, an appellant must establish that based on all circumstances, minimum creditable coverage was not affordable because of a hardship.

The Appellant's monthly income in 2015 was approximately \$3,964 before taxes. The Appellant's monthly expenses were approximately \$3,807 leaving little or no disposable income. I find that the cost of purchasing health insurance would have caused the Appellant to experience financial hardship. See 956 CMR 6.08(1)(e). Appellant's penalty for 12 months is waived.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2015 appeal. Appellant should not assume that a similar determination will be made in the future should a penalty be assessed 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 2015.

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.

CONNECTOR APPEALS UNIT

Jeanne M. Govoni
Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: January 10, 2017

Decision Date: April 10, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 10, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 6/24/16 Appeal (15 pages)
- Exhibit 3: 12/8/16 Notice of Hearing (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a twelve-month penalty against her on her 2015 state income tax return. (Exhibit 1)

Massachusetts Health Connector Appeals Unit

2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$32,029. The Appellant resided in Essex County in 2015. The Appellant turned fifty years old in August 2015. (Exhibit 1)
3. The Appellant did not have health insurance coverage at anytime during 2015. (Exhibit 1; Appellant's testimony)
4. The Appellant submitted her appeal to DOR on June 24, 2016. In the appeal, the Appellant checked off, as the grounds for her appeal, that: "During 2015, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2)
5. The Appellant has worked as a full-time hostess at the same restaurant for several years. In 2015, her employer offered health insurance coverage to employees at a cost of \$68 weekly. The Appellant has never enrolled in the coverage, because it is not affordable for her. (Appellant's testimony; Exhibit 2)
6. The winter months are off-season for the restaurant. During that time, the Appellant works fewer hours and her income is less. At the same time, her expenses go up due to the costs of heating her home. The Appellant falls behind in paying her heating bills and student bills most winters, and has received service termination notices previously as a result. (Exhibit 2; Appellant's testimony)
7. The Appellant's monthly basic expenses in 2015 included: \$1,450, rent; \$230, utilities; \$400, food; \$50, phone; \$75, clothing; \$260, gas for car; \$80, car M&R; \$70, car insurance; and, \$50, student loan, for a total of \$2,665/monthly for 2015 basic expenses. (Appellant's testimony; Exhibit 2)
8. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since her AGI for 2015 was less than \$35,010 for a family of one.
9. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 4.85% of her AGI for health insurance in 2015, based on her AGI and single tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$129 for health insurance coverage in 2015.
10. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for herself in the private market in 2015 for a monthly premium of \$297, based on her county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts Health Connector Appeals Unit

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, the Appellant has established through credible testimony and documentary evidence that she could not afford health insurance coverage in 2015 due to her difficult financial circumstances. The Appellant’s 2015 basic expenses \$31,980 were just \$50 short of her 2015 AGI. Moreover, the Appellant’s income and expenses varied due to the nature of her work and the weather, making it even more difficult for her to take on any additional expenses. Under these circumstances, while government-subsidized health insurance coverage was available to the Appellant in 2015 at a cost of \$129 monthly, I find that the Appellant could not have afforded to purchase such coverage in 2015.

Therefore, I conclude that health insurance that provided minimum creditable coverage was not affordable to the Appellant in 2015, because she experienced a financial hardship, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

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 2015 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 2015.

Massachusetts Health Connector Appeals Unit

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: January 10, 2017

Decision Date: April 10, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone on January 10, 2017. The Appellants offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellants' testimony and the following documents which were admitted in evidence:

- Exhibit 1: 8/31/16 Appeal Case Info from Schedule HC
- Exhibit 2: 8/17/16 Statement of Grounds for Appeal (3 pages)
- Exhibit 3: 8/17/16 Appeal Attachment (15 pages)
- Exhibit 4: 12/19/16 Hearing Notice (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants appealed from the assessment of two twelve-month penalties against them on their 2015 state income tax return. (Exhibit 1)

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2. The Appellant's federal adjusted gross income (AGI) in 2015 was \$73,631. The Appellant's filing status in 2015 was Married Filing Jointly with four dependents and a family size of five. The Appellants resided in Bristol County. The Appellants both turned forty-seven years old in 2015. (Exhibit 1)
3. On June 24, 2016, the Appellants submitted their appeal to DOR, checking off as their grounds for appeal that: "During 2015, you purchased health insurance that did not meet minimum creditable coverage standards, but it was close to or substantially met those requirements, and you felt that your circumstances prevented you from buying other insurance that met the requirements." (Exhibit 2)
4. The Appellants were aware of the individual mandate in 2015. (Appellants' testimony)
5. The Appellant/husband was self-employed in 2015 and still is self-employed. The Appellant/wife worked for the same employer for years, on a part-time basis at times and on a full-time basis at other times. The employer offered health insurance coverage to full-time employees. In April 2015, the Appellant/wife changed from part-time to full-time status, and she enrolled in her employer's health insurance coverage as soon as possible. Her coverage cost her a \$30.11/weekly premium, and the coverage went into effect in May 2015. In addition, the Appellant made a weekly contribution of \$20.70 into an HSA account, through her employer. (Appellants' testimony; Exhibit 2)
6. The Appellants had health insurance coverage through the Appellant/wife's employer from May 1, 2015, through December 2015. The coverage did not meet MCC standards. The Appellants did not become aware that their coverage was not MCC-compliant until they did their 2015 taxes in 2016. The Appellants do not know why or how their coverage did not meet MCC standards. (Appellants' testimony)
7. The Appellants do not recall when they last had health insurance coverage prior to May 2015. At sometime before May 2015, the Appellants had had coverage through the Health Connector. They had lost the coverage due to nonpayment of the premium and could not re-enroll until they paid off the amount due in full. During open enrollment for 2015, the Appellants were not eligible for coverage through the Health Connector because they still had not paid off the amount due the Health Connector. The Appellants still owe the Health Connector just under \$400 in premiums for their prior coverage. (Appellants' testimony)
8. According to Table 3, Affordability, of the Schedule HC 2015, the Appellants could have afforded to pay a monthly premium of up to \$454 for health insurance coverage in 2015, based on their filing status and 2015 federal AGI.

Massachusetts Health Connector Appeals Unit

9. According to Table 2 of the Schedule HC 2015, the Appellants were eligible for government-subsidized insurance since their federal AGI was less than \$83,730 for a family of five.
10. According to Table 4, Premiums, of the Schedule HC 2015, the Appellants could have purchased health insurance for their family in the private market in 2015 for a monthly premium of \$624, based on their ages and county of residence during 2015.
11. The Appellants' basic monthly expenses in 2015 included: mortgage payment, \$1,700; utilities (electric, gas, Internet cable, phone), \$1,500; heating oil, \$120; home maintenance, \$50; cable/Internet, \$75; home phone, \$30; water, \$150; sewer, \$300; food, \$750; clothing, \$200; cars (three; gas, insurance, m&r), \$1,525, for a total of \$6,400 monthly, or \$76,800, yearly. In addition, the Appellants had to pay college tuition for two of their children who were attending college in 2015. (Appellants' testimony; Exhibit 2)

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, although the 2015 Schedule HC Tables indicate that the Appellants were income-eligible for government-subsidized insurance in 2015 and could afford to pay up to \$454 for health insurance coverage in 2015, the Appellants were not eligible for subsidized coverage in 2015 until they paid off the premiums that they owed Health Connector from prior years of coverage. Moreover, the Appellants established through credible testimony and documentary evidence that their finances in 2015 were under severe stress, due to the extraordinary demands of having four dependents, two of whom were in college. The expenses of their household in 2015 exceeded their 2015 AGI by over \$3,000, not including any college tuition. Nevertheless, without money to spare, the Appellants made a good faith effort to obtain health insurance coverage, when the opportunity arose. When employer-sponsored health insurance coverage became available to the Appellants in April 2015, the Appellants enrolled at a cost of \$130/monthly plus a \$90 HSA contribution.

Massachusetts Health Connector Appeals Unit

Therefore, I conclude that the expense of purchasing health insurance coverage that met MCC standards during 2015 would have caused the Appellants a serious deprivation of basic necessities, under 956 CMR Section 6.08(1)(e).

Accordingly, the Appellant's two twelve-month penalties shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

PENALTY ASSESSED

Number of months appealed: 24

Number of months assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2015 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 2015.

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: December 20, 2016

Decision Date: April 5, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant/wife appeared at the hearing, which was held by telephone on December 20, 2016. The Appellant/wife offered testimony under oath or affirmation.

At the end of the hearing, the record was left open until January 18, 2017, for the Appellants to submit additional evidence. On January 4, 2017, and January 18, 2017, the Appellants submitted additional evidence. The record was closed on January 18, 2017. The hearing record consists of the Appellant/wife's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 8/15/16 Appeal (16 pages)
- Exhibit 3: 10/14/16 Final Appeal Decision – 2014TY (5 pages)
- Exhibit 4: 11/22/16 Notice of Hearing (4 pages)
- Exhibit 5: 12/22/16 Letter from out-of-state insurer, stating coverage
- Exhibit 6: 1/17/17 Cover Letter with summary of coverage et al (39 pages)

FINDINGS OF FACT

Massachusetts Health Connector Appeals Unit

The record shows, and I so find:

1. The Appellants appealed from the assessment of two twelve-month penalties against them on their 2015 state income tax return. (Exhibit 1)
2. The Appellants' filing status in 2015 was Married Filing Jointly with one dependent, a 15-year old child. The Appellants' federal AGI in 2015 was \$44,741. The Appellants resided in Berkshire County in 2015. The Appellants turned forty-nine and fifty-one years old in 2015. (Exhibit 1; Appellant/wife's testimony)
3. The Appellant/husband is a retired NYC police officer. The Appellants had health insurance coverage through the NYC Health Benefits Program, beginning in 1996, and the coverage has continued since the Appellant/husband retired. The Appellants moved to Massachusetts in 2008. (Exhibits 2 and 3; Appellant/wife's testimony)
4. In the 10/14/14 Final Appeal Decision on the Appellants' appeal of a 2013 Tax Year Penalty, the hearing officer found that the Appellants had health insurance coverage in 2013 through EmblemHealth only and that the coverage did not include prescription drugs, outpatient surgery, emergency room services, or hospitalization. While this coverage did not meet minimum creditable coverage standards (MCC), the hearing officer concluded that the Appellants reasonably believed that they had compliant coverage in 2013 and granted the Appellants request for a waiver of their 24-month penalty for 2013. In an addendum, the hearing officer advised the Appellants to investigate other health insurance plans that were MCC-compliant during the next open enrollment period. (Exhibit 3)
5. In 2015, the Appellants' health benefit plan included EmblemHealth for medical coverage and Empire BC/BS for hospitalization. In addition, the Appellants were covered by the Patrolmen's Benevolent Association/CareMark Prescription Drug Program for prescription drug benefits with an annual limit of \$10,000. EmblemHealth had an annual deductible limit of \$175 person and an annual maximum of \$500 for a family of three; paid 100% of covered services after the deductible limit was met, up to an annual maximum of \$200,000 in covered expenses; provided for mammography screening and pap smear screening, but did cover annual physicals and immunizations; provided for preventive and primary care services for dependent children without a co-pay charge; covered surgical procedures in or out of the hospital; covered urgent care and ER services; and, provided for mental health coverage. (Exhibit 6)
6. The Appellants did not learn until 2014, when they did their 2013 taxes, that their health insurance coverage did not meet MCC standards. (Appellant/wife's testimony)

Massachusetts Health Connector Appeals Unit

7. According to Table 2 of the Schedule HC 2015, the Appellants were eligible for government-subsidized insurance in 2015, since their 2015 AGI was less than \$59,370 for a family of three.
8. According to Table 3, Affordability, of the Schedule HC 2015, the Appellants could have afforded to pay up to 4.75% of their AGI for health insurance in 2015, based on their 2015 AGI and tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$177 for health insurance coverage in 2015, based on their filing status and federal AGI that year.
9. According to Table 4, Premiums, of the Schedule HC 2015, the Appellants could have purchased health insurance coverage for their family in the private market in 2015 for a monthly premium of \$696, based on their county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 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. However, 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. MGL Chapter 111M, § 2(b). The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, the Appellants had health insurance coverage throughout 2015. In response to receiving the 10/14/14 Final Appeal Decision, the Appellants had sought to improve their health insurance coverage in 2015, so that it met MCC standards. However, in doing so, their 2015 coverage was unusual in that it was split among three separate insurers: one for medical services, a second for hospitalization, and a third for prescriptions. Nevertheless, taken as a whole, the Appellants’ health insurance plans covered the comprehensive set of services required under the MCC standards, including doctor visits, hospital admissions, day surgery, emergency services, mental health and substance, and prescription drug coverage. While their prescription drug coverage did have a benefit cap, their medical coverage had a much lower annual cap on deductibles than the MCC standard. Also, while their coverage capped the total benefits for a single year, the cap of \$200,000 was fairly high.

Massachusetts Health Connector Appeals Unit

Under these circumstances, I conclude that the Appellants purchased health insurance in 2015 that did not meet MCC standards, but that the coverage was close to or substantially met the requirements. However, the Appellants have not established that their circumstances prevented them from buying other insurance that met MCC requirements. If they had applied for coverage through the Health Connector in 2015, they would have learned that they were eligible for government-subsidized coverage that met MCC standards at a cost of \$177 monthly, based on their income in 2015. Yet, instead, the Appellants made a good faith effort in 2015 to supplement their long-standing medical coverage with separate hospitalization and prescription drug plans that they believed would bring their coverage up to MCC standards.

Based on these circumstances, I conclude that the Appellants reasonably believed that they had health insurance in 2015 that provided minimum creditable coverage. Therefore, I grant the Appellants' request to waive in full the tax penalties assessed to them for 2015, under 956 CMR 6.08(1), (2)(d), and (3).

Accordingly, the Appellants' two twelve-month penalties shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

PENALTY ASSESSED

Number of months appealed: 24

Number of months assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2015 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 2015.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

Massachusetts Health Connector Appeals Unit

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

Addendum: If the Appellants have not already done so, to avoid the assessment tax penalties in the future, I urge the Appellants to pursue obtaining MCC-compliant coverage through the Health Connector by going to its website and establishing an account, or contacting Health Connector Customer Service by phone, during the next open enrollment period.

cc. Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: December 20, 2016

Decision Date: April 6, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts 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 December 20, 2016. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 9/8/16 Appeal (12 pages)
- Exhibit 3: 11/22/16 Notice of Hearing (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a five-month penalty against him on his 2015 state income tax return. (Exhibit 1)

Massachusetts Health Connector Appeals Unit

2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$18,852. The Appellant resided in Hampden County in 2015. The Appellant turned thirty-one years old in February 2015. (Exhibit 1)
3. The Appellant submitted his appeal to DOR on May 5, 2016. In the appeal, the Appellant checked off, as the grounds for his appeal, that: "During 2015, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2)
4. The Appellant was unemployed in 2015, until August 2015, when he got a new job. His new employer offered health insurance coverage, and the Appellant enrolled in the coverage as soon as he could. The Appellant had health insurance coverage that met MCC standards in September, October, November, and December 2015. (Appellant's testimony; Exhibit 1)
5. The Appellant received most of his 2015 income during the last five months of 2015, when he was employed. (Exhibit 2; Appellant's testimony)
6. The Appellant's last employment, prior to August 2015, ended in July 2014, when his employer closed down division where the Appellant worked, and the Appellant was laid off. (Appellant's testimony)
7. The Appellant received unemployment benefits from January 2015 to July 2015. The Appellant received a total of \$5,976 in UI benefits in 2015, or about \$854/monthly, during the seven months that he collected benefits. (Exhibit 2; Appellant's testimony)
8. In September 2014, the Appellant began attending school, in order to change career. He completed the one-year certification program in May 2015. Tuition for the program was \$6,000. The Appellant received a student loan of \$8,000 to pay the tuition and other school expenses. His school did not offer health insurance coverage to students. (Appellant's testimony)
9. The Appellant lived with his parents in 2015. His basic monthly expenses in 2015 included a \$300 contribution he made to his parents for house bills/expenses; \$450 for car payment/gas/insurance/maint&repair; \$400, food; \$50, cell phone; and, \$50, clothing, for a total of \$1,250/monthly. (Appellant's testimony)
10. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since his income was less than \$35,010 for a family of one.
11. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 2.75% of his AGI for health insurance in 2015, based on his AGI and single tax filing status. This meant that the Appellant's household could have afforded to pay a monthly premium of up to \$43 for health insurance coverage in 2015.

Massachusetts Health Connector Appeals Unit

12. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for himself in the private market in 2015 for a monthly premium of \$204, based on his county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, the Appellant had employer-sponsored health insurance coverage through his new employer during the last four months of 2015. The Appellant contends that he could not have afforded to purchase health insurance during the first seven months of 2015. These seven months coincide with the time when his only source of income was from unemployment benefits of just \$854 monthly. Although government-subsidized insurance coverage was available to the Appellant in 2015 for \$43 monthly, the Appellant could not have afforded to pay this during the first seven months of the year since his basic monthly expenses, even with the assistance of the Appellant’s parents, exceeded his monthly income by more than \$400 during that period. In August, when he began this new job, the Appellant obtained health insurance coverage through his new employer as soon as he could, effective September 1, 2015.

Therefore, I conclude that health insurance that provided minimum creditable coverage was not affordable to the Appellant from January 2015 to August 2015, because he experienced a financial hardship, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s five-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

PENALTY ASSESSED

Number of months appealed: 5

Number of months assessed: 0

Massachusetts Health Connector Appeals Unit

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2015 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 2015.

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: December 20, 2016

Decision Date: April 7, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts 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 December 20, 2016. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 9/14/16 Appeal (10 pages)
- Exhibit 3: 3/19/16 TY2014 Decision (7 pages)
- Exhibit 4: 11/22/16 Notice of Hearing (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a twelve-month penalty against him on his 2015 state income tax return. (Exhibit 1)

Massachusetts Health Connector Appeals Unit

2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$39,315. The Appellant resided in Bristol County in 2015. The Appellant turned thirty-three years old in April 2015. (Exhibit 1)
3. The Appellant submitted his appeal to DOR on September 14, 2016. In the appeal, the Appellant checked off, as the grounds for his appeal, that: "During 2015, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2)
4. The Appellant worked for the same employer during all of 2015. The Appellant continues working for this employer, to date. His employer began offering health insurance coverage to employees in June 2015. The Appellant was eligible for the coverage for a monthly premium of about \$250. The Appellant considered this cost to be more than he could afford at the time. (Appellant's testimony)
5. The Appellant did not make any effort to obtain health insurance coverage in 2015, prior to his employer offering health insurance, because he assumed from his attempts in the past that he still could not afford health insurance. (Appellant's testimony)
6. The Appellant appealed the assessment of a twelve-month tax penalty against him for not having health insurance in TY2014. The Appellant's 2014 AGI was \$32,909. In his 3/19/16 appeal decision, the hearing officer waived the Appellant's entire tax penalty for 2014, but cautioned the Appellant "that he should not assume that penalties will be either waived or reduced in future years if he does not at least apply to the Health Connector for health insurance." (Exhibit 3)
7. After securing a pay raise and negotiating a payment plan with his employer, the Appellant obtained health insurance coverage through his employer in June 2016, during his employer's open enrollment period. (Exhibit 2; Appellant's testimony)
8. The Appellant's monthly basic expenses in 2015 included: \$1,000, rent; \$130, utilities; \$480, food; \$75, cell phone; \$25, clothing; \$350, car payment; \$220, gas; \$100, car m&r; \$200, car insurance; and, \$275, credit card payments on \$10,000 debt, for a total of \$2,855/monthly for 2015 basic expenses. (Appellant's testimony)
9. According to Table 2 of the Schedule HC 2015, the Appellant was not eligible for government-subsidized insurance in 2015, since his AGI for 2015 was more than \$35,010 for a family of one.
10. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 7.2% of his AGI for health insurance in 2015, based on his AGI and single tax filing status. This meant that the Appellant's household could have afforded to pay a monthly premium of up to \$235 for health insurance coverage in 2015.

Massachusetts Health Connector Appeals Unit

11. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for himself in the private market in 2015 for a monthly premium of \$204, based on his county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In hindsight, health insurance coverage at a cost of \$204 monthly was available to the Appellant in the private market in 2015, and the Appellant could have afforded to purchase coverage at that price. However, while his AGI for 2015 was 20% higher than his AGI for 2014, the Appellant continued to struggle with credit card debt payments in 2015, and it was not unreasonable for him to assume that he continued to be unable to afford coverage. It was not until March 2016, when he received the TY2014 penalty appeal decision, that he fully understood that he had to get coverage under the individual mandate or pay a tax penalty, that he had been eligible for government-subsidized coverage in 2014, and that he should apply to the Health Connector to find out if he qualified for government-subsidized coverage in the future. In response, the Appellant was able to secure a pay raise from his employer, arrange for a payment plan for coverage, and enroll in his employer’s health insurance coverage in June 2016, just three months later, when his employer had open enrollment. In the spring of 2015, when his employer had first offered health insurance coverage, the Appellant could not have afforded to pay the monthly premium for coverage in 2015.

Therefore, I conclude that health insurance that provided minimum creditable coverage was not affordable to the Appellant in 2015, because he experienced a financial hardship, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

Massachusetts Health Connector Appeals Unit

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 2015 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 2015.

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

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: ___**X**___ Penalty Overturned in Full ___ ___ Penalty Upheld
 ___ Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date:
February 17, 2017

Decision Date:
March 23, 2017

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 17, 2017

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

Exhibit 1: Notice of Hearing dated January 26, 2017

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Written Statement of Appeal

Exhibit 4: Documents from prior Appeal Dates

CONNECTOR APPEALS UNIT

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant is 28 years old and is married. His wife is 27 years old. Appellants live in Bristol County.
2. Appellant is employed in engineering.
3. Appellant does have health insurance in 2017. Appellants had insurance in 2016.
4. The Appellants monthly expenses totaled \$3,655.00, consisting of rent \$1,000.00, heat and electricity \$250.00 internet and cable \$60.00, cell phones \$170.00, car payments 2 cars \$225.00 car insurance \$200.00, car gas \$240.00, food \$480.00, credit card \$200.00, clothing \$300.00, entertainment \$280.00, toiletries \$80.00, student loan \$200.00
5. The Appellant did not submit a Statement of Grounds for Appeal-2015, but should have submitted a statement as grounds for appeal "During 2015, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. I will hear the appeal under those 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 2015. 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 2015.
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 Appellants income of \$40,314.00 was less than \$47,190.00. The monthly premium for health insurance available on the private market in Bristol County for a 27 year old married person with zero dependents was \$287.00. The tables reflect that Appellants could afford \$241.88. This is more than what the appellants are deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

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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-2015, but should have submitted a statement as grounds for appeal “During 2015, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. I will hear the appeal under those grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. *See* Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2015, 150 percent of the FPL was \$23,595.00 for a divorced person with one 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 2015 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 him in 2015. 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

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health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2014 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$40,314.00 in 2015, and Appellants filing status was married with zero dependents. EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2015 Massachusetts Schedule HC, Appellants could afford to pay \$241.88 monthly for health insurance. See 2014 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 \$287.00 monthly for coverage which appellants could not afford. *Id.* at Table 4.

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

On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2015. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2015 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ___24___ Number of Months Assessed: ___0___

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2011 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 2011.

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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

CONNECTOR APPEALS UNIT

FINAL APPEAL DECISION

Appeal Decision: ___ Penalty Overturned in Full ___ Penalty Upheld
 x Penalty Overturned in Part

Hearing Issue: Appeal of the 2015 Tax Year Penalty

Hearing Date: December 20, 2016

Decision Date: April 5, 2017

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 December 20, 2016, 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—2015
- Ex. 1A—Letter from the appellant dated September 15, 2016
- Ex. 1B—Residential lease for the period September 11, 2015—September 11, 2016
- Ex. 1C—2015 Schedule HC
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2015 Massachusetts income tax return. It also contains information about prior appeals, if any.

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The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. Specifically, a request was made for information regarding the appellant's student loan debt and any payments made towards the debt in 2015. Nothing was submitted in response to the request and the record was closed.

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 49-years-old, is single, and does not have children. He did not have health insurance in 2015. (Testimony, Ex. 2)
2. The appellant believes that he last had health insurance in 2012 through an employer. He was employed on a part-time basis in 2013 and 2014 and did not have employer health insurance. He does not believe that he has ever paid a penalty for failure to obtain health insurance since the Health Reform Act of 2006 was enacted. (Testimony)
3. The appellant was self-employed in 2015 and his work consisted primarily of freelance academic assignments. (Testimony)
4. The appellant did not investigate any health insurance options for 2015. (Testimony)
5. The appellant did not have health insurance in 2016. (Testimony)
6. The appellant reported an adjusted gross income of \$32,022.00 on his 2015 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2015, the appellant had regular monthly expenses of approximately \$3870.00 for rent (\$3250.00), electricity (\$120.00), and food (\$500.00). (Testimony, Ex. 1A)

In addition to the foregoing, I take administrative notice of the 2015 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2015>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2015 individual mandate tax penalty determinations.

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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 does not apply to him because during 2015, the expense of purchasing insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. He also submitted a letter with his statement (Ex. 1A) in which he stated in part that his monthly expenses exceeded his income by approximately \$1018.00.

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 2015, 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 that he last had health insurance in 2012 through an employer. He testified that he was employed on a part-time basis in 2013 and 2014, and was self-employed in 2015. He testified that he does not believe he has ever paid a penalty for not having insurance since the Health Care Reform Act of 2006 was enacted. Finally, he testified that he did not investigate health insurance options for 2015 and did not have insurance in 2016.

The evidence provided by the appellant established that his income for 2015, \$32,022.00, was within 300% of the federal poverty level, which for 2015 was \$35,010.00 for a single person. Therefore, in 2015, assuming he met all other eligibility criteria, the appellant should have qualified for subsidized health insurance through the Health Connector, and for which he would have been subject to a subsidized premium of approximately \$129.00 per month (\$1553.06/12), based on his income. The premium is determined by calculating 4.85% of income pursuant to the Affordability Schedule in Table 3 referenced in the final paragraph of the Findings.

Even though subsidized health insurance through the Connector may have been affordable to the appellant under the law, he may nevertheless not be subject to a

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penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2015. 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 2015 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 entire period in question. The appellant testified that in 2015 he incurred basic monthly expenses of approximately \$3870.00. Those expenses were more than his regular monthly pre-tax income of approximately \$2669.00, thereby making a subsidized health insurance premium through the Health Connector of approximately \$129.00/month unmanageable. 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 foregoing, the appellant's request for a waiver from the penalty is **granted** for the twelve months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2015 only and is based upon the extent of information submitted in this appeal.

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 2015.

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.

CONNECTOR APPEALS UNIT

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is strongly encouraged to investigate his eligibility for 2018 health insurance on the Health Connector website at **mahealthconnector.org**, during the next open enrollment period in the fall of 2017. He is further advised not to rely on a similar extension of leniency should he appeal the assessment of a penalty in any future tax year.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: February 7, 2017

Decision Date: April 11, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant and his wife appeared at the hearing, which was held by telephone on February 7, 2017. The Appellant and his wife offered testimony under oath or affirmation.

At the end of the hearing, the record was left open until February 21, 2017, for the Appellant to submit additional documentary evidence. On February 17, 2017, the Appellant submitted additional documentary evidence, and the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 10/18/16 Appeal (7 pages)
- Exhibit 3: 1/19/17 Notice of Hearing - MA (3 pages)
- Exhibit 4: 1/19/17 Notice of Hearing - RI (3 pages)
- Exhibit 5: 2/16/17 Landlord's Letter (2 pages)

FINDINGS OF FACT

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The record shows, and I so find:

1. The Appellant appealed from the assessment of a twelve-month penalty against him on his 2015 state income tax return. (Exhibit 1)
2. The Appellant's filing status in 2015 was Married Filing Jointly with no dependents. The Appellant's federal AGI in 2015 was \$38,611. (Exhibit 1)
3. The Appellant resided in Rhode Island throughout 2015 and continues to reside there. (Appellant's testimony; Exhibit 5)
4. The Appellant and his wife got married in May 2015. Prior to their marriage, the Appellant's wife was residing in Bristol County, Massachusetts. Shortly after their marriage, the Appellant's wife moved to the Appellant's residence in Rhode Island. (Appellant's testimony; Testimony of Appellant's wife)

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, as the Appellant did not reside in Massachusetts in 2015, he was not subject to the requirements of the individual mandate, under MGL Chapter 11M, § 2.

Accordingly, the Appellant's twelve-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

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 2015 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have

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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 2015.

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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: February 7, 2017

Decision Date: April 11, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 7, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 10/25/16 Appeal (7 pages)
- Exhibit 3: 1/30/14 Final Appeal Decision (5 pages)
- Exhibit 4: 1/19/17 Notice of Hearing (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a twelve-month penalty against her on her 2015 state income tax return. (Exhibit 1)

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2. The Appellant's filing status in 2015 was Single with no dependents. The Appellant's federal AGI in 2015 was \$18,078. The Appellant resided in Middlesex County in 2015. The Appellant turned fifty-eight years old in August 2015. (Exhibit 1)
3. The Appellant had no health insurance coverage in 2015. The Appellant had health insurance coverage for two months prior to 2015, but she cannot recall in what year. The Appellant last checked for health insurance, prior to 2015, at sometime in 2010 or later. She saw at that time that she could not afford health insurance. (Exhibit 1; Appellant's testimony)
4. The Appellant next looked for health insurance coverage during open enrollment at the end 2015, at the suggestion of her son. The Appellant has had health insurance coverage since February 2016. (Appellant's testimony)
5. The Appellant submitted her appeal to DOR on November 3, 2016. In the appeal, the Appellant checked off, as the grounds for her appeal, that: "During 2015, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice." (Exhibit 2)
6. The Appellant has resided at the same address since 2004. The Appellant was in arrears of her monthly rent for her residence during many months in 2015, including October, November, and December 2015. (Exhibit 2; Appellant's testimony)
7. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since her AGI for 2015 was less than \$35,010 for a family of one.
8. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 2.75% of her AGI for health insurance in 2015, based on her AGI and Single tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$41 for health insurance coverage in 2015.
9. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for herself in the private market in 2015 for a monthly premium of \$306, based on her county of residence and age in 2015.

ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

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In this case, while health insurance coverage at a cost of \$41 monthly was available to the Appellant had she applied to the Health Connector for coverage in 2015, the Appellant has established through credible testimony and documentation that she could not have afforded to pay that much for coverage in 2015. The Appellant struggled, unsuccessfully, all year to keep up with the rent for the residence in which she had lived for more than ten years. At the close of the year, she was still three months in arrears. Under these circumstances, the Appellant had no additional funds to pay for health insurance coverage in 2015.

Therefore, I conclude that health insurance coverage was not affordable for the Appellant in 2015, because she experienced financial hardship, under 956 CMR 6.08(1)(a).

Accordingly, the Appellant's twelve-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

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 2015 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 2015.

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

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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

Appeal Decision: Approved

Hearing Issue: 2015 Tax-Year Penalty

Hearing Date: February 7, 2017

Decision Date: April 12, 2017

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 a hardship appeal, pursuant to the provisions of Massachusetts General Laws, Chapter 111M, Section 4, and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 7, 2017. The Appellant offered testimony under oath or affirmation.

At the end of the hearing, the record was closed. The hearing record consists of the Appellant's testimony, and the following documents which were admitted in evidence:

- Exhibit 1: Appeal Case Information
- Exhibit 2: 11/1/16 Appeal (3 pages)
- Exhibit 3: 1/19/17 Notice of Hearing (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant appealed from the assessment of a twelve-month penalty against him on his 2015 state income tax return. (Exhibit 1)

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2. The Appellant's filing status in 2015 was Married Filing Jointly with no dependents. The Appellant's federal AGI in 2015 was \$37,786. The Appellant resided in Middlesex County in 2015. The Appellant turned thirty-seven years old in December 2015. (Exhibit 1)
3. The Appellant was employed throughout 2015 as a taxi driver. His employer did not offer health insurance coverage to employees. The Appellant's income was unpredictable from week to week due to the nature of his work. (Appellant's testimony)
4. The Appellant's wife earned \$10,000 of their household income in 2015. (Appellant's testimony)
5. The Appellant did not have health insurance coverage at anytime in 2015. (Appellant's testimony)
6. The Appellant checked into getting health insurance coverage during open enrollment for 2015 coverage. The least expensive plan that he found cost \$700/monthly for the Appellant and his wife. The Appellant did not apply for the coverage because he considered the cost to be more than he could afford to pay. (Appellant's testimony)
7. In June 2015, the Appellant made an unplanned trip, by himself, "back home" to Uganda to see his grandmother who was seriously ill. The trip cost at total of \$2,000 for flights and expenses. (Appellant's testimony)
8. The Appellant's monthly basic expenses in 2015 included: \$1,600, rent; \$100, electric; \$65, FIOS; \$450, food; \$70, cellphones; \$125, clothing; \$270, car payments (two cars); \$150, gas; \$50, car m&r; and \$200, car insurance, for a total of \$3,080/monthly for 2015 basic expenses (or \$36,960 for the year). (Appellant's testimony)
9. According to Table 2 of the Schedule HC 2015, the Appellant was eligible for government-subsidized insurance in 2015, since his AGI for 2015 was less than \$47,190 for a family of two.
10. According to Table 3, Affordability, of the Schedule HC 2015, the Appellant could have afforded to pay up to 5.95% of his AGI for health insurance in 2015, based on his AGI and married filing jointly tax filing status. This meant that the Appellant could have afforded to pay a monthly premium of up to \$187 for health insurance coverage in 2015.
11. According to Table 4, Premiums, of the Schedule HC 2015, the Appellant could have purchased health insurance coverage for his wife and himself in the private market in 2015 for a monthly premium of \$418, based on his county of residence and age in 2015.
12. The Appellant was unaware in 2015 that government-subsidized health insurance coverage was available to his wife and him at a cost of \$187/monthly. If he had known this, he still could not have afforded the coverage. (Appellant's testimony)

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ANALYSIS AND CONCLUSIONS OF LAW

MGL Chapter 11M, § 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 issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2015 should be waived, either in whole or in part.

In this case, while the Appellant looked into getting health insurance coverage during open enrollment for 2015, he did not do so carefully or thoroughly, as the least expensive coverage that he found for his wife and himself cost \$700/monthly. In fact, such coverage was available to him and his wife in the private market in 2015 for \$418/monthly; and, if he had taken the time to submit an application to the Health Connector, he would have discovered that he was eligible for government-subsidized coverage in 2015 at a cost of \$187/monthly. Nevertheless, although \$187/monthly is a small fraction of the \$700/monthly that the Appellant had believed, in error, coverage would have cost in 2015, I credit the Appellant’s testimony regarding his household’s basic expenses in 2015. The additional monthly cost of \$187 for health insurance coverage in 2015 would have increased the Appellant’s expenses more than \$1,000 beyond his 2015 AGI.

Therefore, I conclude that health insurance that provided minimum creditable coverage was not affordable for the Appellant in 2015, because he experienced financial hardship, under 956 CMR 6.08(1)(e).

Accordingly, the Appellant’s twelve-month penalty shall be waived in full for 2015.

ORDER

Penalty Overturned in Full
 Penalty Overturned in Part

Penalty Upheld
 Other

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 2015 for the amount equal to one half

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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 2015.

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

Addendum: To ensure that the Appellant is making his decisions concerning the affordability of health insurance coverage with accurate information, I encourage him to submit an application to the Health Connector during open enrollment every year.

cc. Connector Appeals Unit