

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-744

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 14, 2021

Decision Date: April 29, 2021

AUTHORITY

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

JURISDICTION

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

Appellant appeared at the hearing, which was held by telephone, on April 14, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Hearing Notice (2 pages)
- Exhibit 2: Appeals Case Information Sheet (1 page) ¹
- Exhibit 3: Statement of Grounds (w/ statement and attachments) (14 pages)
- Exhibit 4: Request to Vacate Dismissal (11/12/20) (1 page)
- Exhibit 5: Attendance Sheet from 10/22/20 hearing (failed to appear)

FINDINGS OF FACT

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

1. Appellant is appealing an assessment of the individual mandate tax penalty for tax year 2019.
2. Appellant was 26 at the end of 2019.
3. Appellant lived in Norfolk County in 2019.
4. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
5. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$61,749. See Exhibit 2

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

6. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he had health insurance meeting minimum creditable (MCC) standards only for the month of December 2019.
7. In fact, Appellant was insured under his parents' insurance plan until he turned 26 in August 2019. The discrepancy between that fact and what was reported on the Schedule HC was due to a reporting error
8. In August 2019, Appellant started a new job in the restaurant business. He was eligible to get health insurance through that job but had to wait for 90 days until the insurance would start.
9. Thus, he did not become insured in the new position until December 2019.
10. Appellant had changed jobs again by the time of the hearing. He was insured under a plan through the Health Connector at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he reported on his Schedule HC that he was without insurance for eleven months in 2019. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only eight months.

However, Appellant testified credibly that he was covered under his parents' health insurance plan through August 2019. Under the ACA, insurance plans are required to cover the insured's dependent children until the child turns 26. See 42 U.S.C. § 300gg-141. Thus, his testimony is consistent with the law. I further credit Appellant's testimony that this fact was not reported properly on his Schedule HC because of an error in completing the tax form.

If Appellant was in fact insured through August under his parents' plan, and then insured again in December under the plan offered by his new employer, he was only without insurance for three months. As stated above, under the individual mandate statute, as implemented, taxpayers are permitted to have a three-month gap in coverage without penalty. Therefore, had Appellant correctly filed his Schedule HC to reflect the coverage through August, he would not have been assessed a penalty.

Based on the foregoing, I conclude that Appellant is not subject to a tax penalty in 2019 because he was uninsured for only three months. Accordingly, I am allowing the appeal and waiving the penalty in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-749

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 14, 2021

Decision Date: April 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 14, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹ (1 page)
- Exhibit 3: Statement of Grounds (4 pages)
- Exhibit 4: Request to Vacate Dismissal (10/27/20) (1 page)
- Exhibit 5: Attendance Sheet from 10/23/20 hearing (failed to appear) (1 page)

FINDINGS OF FACT

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

1. Appellant was 33 years old at the end of 2019.
2. During 2019, Appellant lived in Middlesex County.
3. Appellant filed her 2019 Massachusetts taxes as single with no dependents.

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

4. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2019 of \$46,290. See Exhibit 2.
5. Appellant reported in the Schedule HC that she filed with her 2019 state income taxes that she had health insurance meeting minimum creditable (MCC) standards from July through September, but did not have such insurance for the remaining nine months of the year.
6. At the start of 2019, Appellant had just left a job through which she had obtained health insurance. She was unemployed for several months looking for work.
7. During this period of time, she found some part-time work in the restaurant field. That part-time position did not offer her health insurance. Her income during this time period was inconsistent and depended on the number of hours that she was offered.
8. In July, she was offered a new part-time temporary position that offered her health insurance. She remained in that position through September, and during that time, she was insured through the employer plan.
9. While working in that part-time position, she also worked in another part-time position that did not offer insurance. That position provided her with more hours starting in September, so she left the temporary position that had offered health insurance and focused on the other position, which did not offer such insurance.
10. Early in 2020, she obtained full-time employment that provided health insurance. She was insured as of the time of the hearing.
11. Throughout 2019, her income was inconsistent because of the part-time nature of her work. She had fixed expenses, including student loans of \$300 a month and credit card debt that required monthly payments of \$300 a month, on top of other expenses such as rent, food, and necessities.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, she had two periods without insurance in 2019, the first lasting six months from January through July, and the second lasting three months from October through December. Because she was entitled to a three-month gap without penalty, she was not assessed a penalty for the second period and was assessed a penalty of only three months for the first period. Thus, she is appealing a penalty of three months.

First, I must determine whether Appellant had affordable insurance available to her during the periods when she was uninsured. In order to do this, I must consider whether Appellant could have obtained affordable insurance from any of the following three sources: (1) employer-sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the time that she was uninsured in 2019, Appellant was either unemployed or working at part-time jobs that did not offer her health insurance. When she did obtain a position that offered health insurance, she took it. However, that position did not last. Accordingly, she could not have obtained insurance through an employer-sponsored plan during the time that she was uninsured.

Further, Appellant would not have qualified for government-subsidized insurance during 2019. Her annual income in 2019 was \$46,290. That amount is above \$36,420, which is 300 percent of the federal poverty limit for a household like Appellant's with one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant would have been able to afford unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one person and made \$46,290 a year was deemed able to afford 7.6 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellant's case, that amounts to \$3,518 or \$293 a month. During 2019, a person like Appellant who was 33 and lived in Middlesex County could have obtained health insurance for a premium of \$279 a month. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because I have concluded that Appellant could have obtained affordable health insurance in 2019, but didn't, I must determine whether she has stated grounds to waive the individual mandate penalty. To meet that standard, Appellant must establish that her circumstances were such that purchasing health insurance would have been a "hardship." 956 CMR 6.08(1). I determine based on all the circumstances that Appellant has met that standard. During the periods that she was uninsured, Appellant either had no income because she was unemployed and not receiving unemployment compensation, or she was working at part-time positions. The part-time positions provided uncertain and variable income, because her pay depended on the number of hours she was offered to work. During that time, Appellant was struggling to keep up with basic expenses. In addition to the regular costs of living, she also had payments arising from student loans and credit card debt. Finally, I noted that, under the affordability standards, the amount that Appellant had available to pay for health insurance was only \$14 above the amount that such insurance would have cost her. That did not provide a sufficient cushion to permit Appellant to purchase insurance without risk of being unable to meet other necessary expenditures. I also take into account the fact that Appellant did obtain health insurance when it was offered to her through employment, and that she was insured as of the date of the hearing. This further establishes that Appellant's experience of unemployment during 2019 was a temporary condition attributable to her uncertain employment situation that year.

Based on the foregoing, I conclude that the purchase of health insurance would have created a hardship for Appellant. Therefore, I am allowing this appeal and waiving the penalty assessed against Appellant in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-760

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 14, 2021

Decision Date: April 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 14, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet ¹ (1 page)

Exhibit 3: Statement of Grounds (with attachments including personal statement and visa documentation) (16 pages)

Exhibit 4: Request to Vacate Dismissal (11/6/20) (with attachments including personal statement, visa and rental documentation, and insurance coverage documentation) (13 pages)

FINDINGS OF FACT

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

1. Appellant was 27 years old at the end of 2019.
2. Appellant filed her 2019 Massachusetts taxes as single with no dependents.
3. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2019 of \$52,039. See Exhibit 2.

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

4. Appellant reported in the Schedule HC that she filed with her 2019 state income taxes that she did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.
5. In February of 2019, Appellant moved to France where she stayed until early 2020. She stayed under a long-term visa. Exhibit 3.
6. Appellant did not know if she had been insured in January of 2019. She did not report having such insurance when filing her Schedule HC.
7. While she was living in France, Appellant had an international health insurance policy.
8. In early 2020, at the time that quarantines were starting because of the Covid-19 pandemic, Appellant returned to the United States and took up residence in Middlesex County.
9. During the time that she lived in France, she was able to work for various United States employers. She could do her work remotely.
10. When she returned to the United States, she obtained employment and obtained health insurance through that employment. She was insured as of the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

To determine whether Appellant should face a penalty for not having insurance, I must first determine whether the individual mandate applied to her. As stated above, the individual mandate applies to individuals who are “residents” of Massachusetts. See G.L.c. 111M, § 2. However, in this case, Appellant did not reside in Massachusetts for almost all of 2019. During that time, she lived in France and did not maintain a residence in Massachusetts. She could not have accessed health services in the United States that would have been covered by an insurance policy purchased in this country. Therefore, I conclude that she was excused from the obligation to obtain health insurance during this period of non-residence.

That leaves only the issue of her insurance in January of 2019, when she was still living in the United States before moving to France. I have no evidence that she was insured during that month. However, according to M.G.L.c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. Administrative Bulletin 03-10: Guidance Regarding M.G.L.c. 111M and M.G.L.c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In keeping with this guidance, I conclude that Appellant should not

be subject to a penalty for a gap of one month if it existed, before she became a non-resident of the Commonwealth.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-771

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 14, 2021

Decision Date: April 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 14, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments including a one-page personal statement, a copy of Form 1095-B, and a letter dated June 8, 2020) (7 pages)
- Exhibit 4: Request to Vacate Dismissal (11/6/20) (1 page)
- Exhibit 5: Attendance Sheet (10/23/20) (1 page)

FINDINGS OF FACT

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

1. Appellant was 41 years old at the end of 2019.
2. Appellant lived in Norfolk County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.

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

4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$52,604. See Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019. Exhibit 2.
6. However, in late 2018, Appellant had applied for health coverage through MassHealth, the state's Medicaid program, and had been determined eligible. He was in fact covered under MassHealth for the months of January and February 2019. See Exhibit 3 (Form 1095-B). Appellant did not explain why this coverage was not reported on the Schedule HC that he filed, but apparently it was due to a filing error.
7. After February 2019, Appellant's MassHealth coverage was discontinued because his income was too high.
8. In 2019, Appellant worked at a position that did not offer him health insurance.
9. During 2019, Appellant lived with a partner who was expecting their child. He contributed to her support. The child was born in 2020.
10. During 2019, Appellant had expenses beyond the normal costs of living, including student loan payments, repayment of debt, and a significant cost for car maintenance.
11. At some point in 2020, Appellant was able to obtain health insurance through employment. He was covered as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In this case, although Appellant reported on his taxes that he was not insured at any point during 2019, he has provided credible evidence, including a Form 1095-B sent to him by the Commonwealth of Massachusetts, that he was covered during January and February. Therefore, I will consider whether Appellant should be subject to the individual mandate penalty for the remaining 10 months of the year when he was not insured.

In order to do this, I must first consider whether Appellant could have obtained affordable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the time that he was uninsured in 2019, Appellant worked at a position that did not offer him health insurance. Therefore, he did not have access to employer sponsored insurance.

Further, Appellant would not have qualified for government-subsidized insurance during 2019. His annual income in 2019 was \$52,604. That amount is above \$36,420, which is 300 percent of the federal poverty limit for a household like Appellant's with one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant would have been able to afford unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one person and made \$52,604 a year was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellant's case, that amounts to \$4,208 or \$350 a month. During 2019, a person like Appellant who was 41 and lived in Norfolk County could have obtained health insurance for a premium of \$306 a month. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because I have concluded that Appellant could have obtained affordable health insurance in 2019, but didn't, I must determine whether he has stated grounds to waive the individual mandate penalty. To meet that standard, Appellant must establish that his circumstances were such that purchasing health insurance would have been a "hardship." 956 CMR 6.08(1). Appellant testified that he shopped for insurance and concluded that the approximately \$300 a month cost was too much for him. During this period, Appellant worked at a job that paid an hourly wage; thus, his wages depended on the number of hours he was able to work. Further, although he filed his taxes as a single person, he was actually the sole support of his partner. See Exhibit 3. Also, he had unusual expenses, including a high required payment for student loans, the cost of repaying pre-existing debt, and an unusually high cost of car maintenance. Given all these factors, I conclude that Appellant has established that his financial circumstances were such that the purchase of health insurance meeting minimum standards would have caused him to experience a serious deprivation of the necessities of life. This constitutes grounds for allowing his appeal. 956 CMR 6.08(1)(e). In reaching this conclusion, I note that Appellant did seek to obtain health insurance through his employment and succeeded in 2020. This demonstrates that his period without insurance in 2019 was a temporary condition caused by his financial circumstances at that time period.

Based on the foregoing, I allow the appeal and waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-798

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 14, 2021

Decision Date: April 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 14, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments including a one-page personal statement and a copy of an explanation of benefits from Continental Care/UCA) (14 pages)
- Exhibit 4: Request to Vacate Dismissal (11/11/20) (1 page)

FINDINGS OF FACT

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

1. Appellant was 29 years old at the end of 2019.
2. Appellant moved to Massachusetts from another state in March 2019.
3. While in Massachusetts, Appellant lived in Suffolk County.
4. Appellant filed his 2019 Massachusetts taxes as single with no dependents.

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

5. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$29,422. See Exhibit 2.
6. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019. Exhibit 2.
7. When Appellant moved to Massachusetts, he was aware that he was required by state law to obtain health insurance. He contacted an insurance agent. The agent sold him a product that did not constitute comprehensive health insurance that met state standards. See Exhibit 3.
8. The product that Appellant purchased provided insurance coverage only for hospital services arising from accident and sickness. Exhibit 3. With regard to other medical services and prescription drugs, the product also provided “discounts” not insurance coverage. There is no coverage for mental health services. The information provided to Appellant about this product states that it is not a comprehensive insurance plan and does not qualify as minimum essential coverage under the Affordable Care Act. See Exhibit 3 (Unified Caring Association disclosures at page 2).
9. The cost of this product was approximately \$180 a month. See Exhibit 3.
10. This product did not meet minimum creditable coverage standards under Massachusetts law.
11. Appellant did not realize that the plan did not meet these standards until December 2019. At that point, he applied for coverage through the Health Connector and was determined eligible for a subsidized plan, which he has been enrolled in since.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, persons who become residents of Massachusetts during the course of the tax year are permitted a 63-day period before getting coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he became a resident of Massachusetts in March. Thus, he was not subject to the penalty for another three months. Accordingly, he has been assessed a penalty for only seven months.

Unfortunately, when Appellant became a resident of Massachusetts, he purchased a product that did not constitute “creditable coverage” under Massachusetts law. M.G.L. c. 111M, § 2(a). “Creditable

coverage” is defined as a plan which meets the definition of “minimum creditable coverage” (or “MCC”) under regulations promulgated by the Health Connector’s board. M.G.L. c. 111M, § 1. These regulations contain a number of standards that an insurance plan must meet in order to meet MCC standards. For instance, a plan must cover a range of listed “core” services, which include inpatient and outpatient services, mental health treatment, and prescription drugs. 956 CMR 5.03(1)(a). The product that Appellant purchased did not meet that standard. As a result, Appellant did not have creditable coverage and so has been assessed a penalty.

In order to determine whether Appellant should be penalized for not having purchased creditable coverage in 2019, I must first consider whether Appellant could have obtained affordable creditable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the time that he resided in Massachusetts in 2019, Appellant did not work at a position that offered him health insurance. Therefore, he did not have access to employer sponsored insurance.

Further, Appellant could not have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one person and made \$29,422 a year was deemed able to afford 4 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellant’s case, that amounts to \$1,176 or \$98 a month. During 2019, a person like Appellant who was 29 and lived in Suffolk County would have had to pay a premium of at least \$257 for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have not been affordable for Appellant.

However, Appellant would have qualified for government-subsidized insurance during 2019. His annual income in 2019 of \$29,422 was below \$36,420, which is 300 percent of the federal poverty limit for a household like Appellant’s with one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes under 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance, provided they meet other eligibility requirements. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant did meet those other eligibility requirements because he applied for and obtained Connector Care in December 2019.

Because I have concluded that Appellant could have obtained affordable health insurance in 2019, but didn’t, I must determine whether he has stated grounds to waive the individual mandate penalty. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellant did actually purchase. See 956 CMR 6.08(2)(b). In this case, Appellant unknowingly purchased insurance that did not meet MCC standards under state law. In fact, the cost of that insurance was significantly higher than the cost of Connector Care would have been had he applied for that insurance. Additionally, Connector Care would have provided him with comprehensive coverage with minimal cost-sharing requirements, and would have met state MCC standards. Thus, I conclude that Appellant did not fail to get creditable coverage because he was trying to save money by evading

the requirements of the individual mandate law. Rather, I conclude that it was due to confusion and unfamiliarity with the requirements of Massachusetts state law. I also note that, when Appellant realized that he had purchased something less than creditable coverage, he applied for and obtained Connector Care coverage and has remained insured since then.

Based on the foregoing, I will exercise my discretion to allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-799

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: April 14, 2021

Decision Date: April 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on April 14, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with handwritten statement attached) (6 pages)
- Exhibit 4: Request to Vacate Dismissal (11/17/20) (1 page)

FINDINGS OF FACT

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

1. Appellant was 29 years old at the end of 2019.
2. During 2019, Appellant lived in Norfolk County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$25,723. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards in January and February of 2019, but he did have such insurance from March through May. He further reported that he did not have such insurance for the remaining seven months of 2019. Exhibit 2.
6. In late 2018, Appellant was hired in a position that offered him health insurance after a three-month probationary period. He became enrolled in that insurance in March 2019.
7. However, Appellant left that position in May 2019 and thus lost his employment-based insurance.
8. Appellant then looked for work until August, when a temp agency placed him at another position.
9. Appellant stated that during the period from at least August through December 2019, he applied for and obtained insurance through Tufts Health Plan. He produced a bill for that plan, identifying the plan name and type and the premium amount. Accordingly, I find that his testimony about his coverage was credible. Appellant did not explain why he did not report that insurance coverage on his Schedule HC, although he stated that he had trouble with obtaining his records.
10. Eventually, in February 2020, he was hired by the organization at which he had been temping and was offered health insurance. He was insured as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, persons are permitted a 63-day period between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he had a two-month gap without coverage at the beginning of the year, which is not subject to a penalty. Further, he reported a seven-month gap in coverage starting in June 2019. Because he was entitled to a penalty-free period of three months, he has been assessed a penalty of only four months.

However, Appellant testified credibly that he actually had insurance coverage during the period from at least August through December 2019. Accordingly, the gap in coverage after he left his employment in May was only three months. Because he was entitled to a penalty-free gap of three months, he should

not have been assessed a penalty and would not have been so assessed if he had accurately reported his coverage status in Schedule HC.

Based on the foregoing, I will allow the appeal and waive the four-month penalty assessed against Appellant.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1140

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 11, 2021

Decision Date: April 2, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on February 11, 2021.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection. In response to a post-hearing Open Record request, Appellant provided a copy of their Form 1099-HC for 2020, which is included below as Exhibit 6 and Benefits Confirmation Statement, dated 11/09/18, which is included below as Exhibit 7.

Exhibit 1: Hearing Notice Dated January 19, 2021 (2 pages)

Exhibit 2: Appeal Case Info. from Sch. HC for 2019 (1 page)

Exhibit 3: Statement of Grounds for Appeal (2 pages)

Exhibit 4: Appellant's Supporting Letter, undated (1 page)

Exhibit 5: Form 1095-B for 2019 (2 pages)

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

Exhibit 6: Form MA 1099-HC for 2020 and (3 pages)
CareFirst BCBS cover letter,
dated January 21, 2021

Exhibit 7: Benefits Confirmation Statement, (2 pages)
11/09/18

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 34 years old in September 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$607,167.00. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2). The Appellant filed an appeal of that assessment in August 2020. (Exhibit 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$607,167.00, could afford to pay \$4,047.78 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34, living in Suffolk County, could have purchased private market health insurance for \$279.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellant in 2019.
8. Employer-sponsored insurance was offered to and purchased by the Appellant at a cost of about \$582.00 per month, which included both the employer and employee contributions. (Appellant's Testimony). According to Table 3 of Schedule HC for 2019, employer-sponsored insurance was affordable to Appellant.

9. The Appellant was not eligible for ConnectorCare coverage in 2019 because although their adjusted gross income of \$607,167.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2).
10. Appellant testified that they work for a national company that outsources its benefits work. They received a Form 1095-B for 2019 showing that they had insurance coverage for the entire year. (Exhibit 5). When they received their Form MA 1099-HC for 2019, they were surprised to see that the box was checked indicating that they did not have MCC coverage for 2019. They had been told by both their employer and its insurance carrier that their insurance coverage for 2019 was MCC-compliant. They requested a corrected MA Form 1099-HC for 2019 from the insurance company in light of that understanding. (Exhibit 3 and Appellant's Testimony, which I credit).
11. The Appellant has not received the corrected MA 1099-HC for 2019. (Appellant's Testimony, which I credit). They did receive a Form MA 1099-HC for 2020 that indicates their health insurance is MCC-compliant for every month of 2020, as they had understood to be true for the year 2019. (Exhibit 6 and Appellant's Testimony).
12. Appellant currently has health insurance coverage through their company that is MCC-compliant. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the "Other" reasons box as the basis for their appeal. (Appellant's Testimony and Exhibit 3). Appellant claimed that their Form 1099-HC for 2019 incorrectly indicated that their insurance was not MCC-compliant.

To determine if the twelve (12)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

Based on all the evidence contained in this administrative record and the totality of the circumstances, I find that the Appellant paid for employer-sponsored insurance (ESI) for 2019 with the understanding and expectation that their ESI was MCC-compliant. Appellant's employer and its insurer confirmed that understanding for Appellant on multiple occasions. Appellant on multiple occasions requested a corrected Form MA1099-HC for 2019 from their employer's insurance carrier but did not receive one. Instead, Appellant received a Form MA1099-HC for 2020 indicating that Appellant had received MCC-compliant health insurance from the same insurer for each month of 2020. Appellant currently receives MCC-compliant ESI through the same insurance carrier. (Appellant's Testimony).

For all the reasons stated herein, I am exercising my discretion to waive Appellant's twelve (12)-month penalty in full on the ground that paying a penalty for MCC-compliant health insurance they had expected and paid for would be inequitable and constitute a hardship under 956 CMR 6.08 (3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-503

Appeal Decision: ___Penalty Upheld XXPenalty Overturned in Full ___Penalty Overturned in Part

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

Hearing Date: March 10, 2021

Decision Date: April 22, 2021

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on March 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for Appeal dated April 28, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: HC Appeals Unit Notice of Hearing dated August 3, 2020.
- Exhibit 4: HC Appeals Unit Notice of Hearing dated February 16, 2021.
- Exhibit 5: Appellant's letter in support of this appeal.
- Exhibit 6: Copy of Abuse Prevention Order, undated.

FINDINGS OF FACT

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

1. Appellant turned 29 years old and resided in Essex County in 2019. (Exhibit 2).
2. Appellants filed her 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$37,333. (Exhibit 2).
3. Appellant had no health insurance for the entirety of 2019. (Exhibit 2).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that the expense of purchasing health insurance in 2019 would have caused a serious deprivation of necessities, after incurring significant and unexpected increases in expenses as a result of domestic violence. (Exhibits 1, 5-6; Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2019, the three-month grace period is inapplicable and she is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

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

According to Schedule HC for 2019 Table 2, I find that Appellant’s 2019 Adjusted Gross Income of \$37,333 made her ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 29 and living in Essex County, \$257 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$37,388, could afford to pay \$232 monthly for an individual plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was not affordable for Appellant in 2019. *See* 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant offered credible testimony, supported by submission of an Abuse Prevention Order (“APO”) issued by the district court, that Appellant experienced domestic violence in 2019 by her spouse. (Exhibits 1, 5-6; Appellant Testimony.) The district court issued the APO at the beginning of 2019, extending it in late 2019, approximately one year before Appellants’ divorce was finalized in September of 2020. (Appellant Testimony). Appellant credibly testified that while still married, Appellant’s spouse told Appellant that he’d be filing their 2019 taxes jointly; he instead filed a 2019 tax return individually. (Appellant Testimony). Appellant did not learn that her spouse filed individually, resulting in Appellant’s failure to file a 2019 tax return, until after the filing deadline. (Appellant Testimony).

Domestic violence manifests in many forms; as a result of her spouse’s misrepresentation, Appellant incurred a late filing tax penalty coupled with interest, ultimately paying the Internal Revenue Service almost double what she would have paid had she known she needed to file individually and filed on time. (Appellant Testimony). Appellant incurring this significant and wholly unexpected expense directly resulted from her spouse’s conduct, the same spouse against whom Appellant sought protection in 2019. Based on this connection, I conclude that Appellant incurred significant and unexpected increases in expenses as a result of domestic violence. I find that in 2019 Appellant experienced a financial hardship, such that purchasing health insurance would have caused Appellant a serious deprivation of necessities.

Accordingly, Appellant’s appeal is **GRANTED** and her twelve-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-510

Appeal Decision: ___Penalty Upheld XXPenalty Overturned in Full ___Penalty Overturned in Part

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

Hearing Date: March 10, 2021

Decision Date: April 26, 2021

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on March 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for Appeal dated April 15, 2020.
- Exhibit 2: HC Appeals Unit Notice of Hearing dated August 3, 2020.
- Exhibit 3: HC Hearing Attendance Sheet Hearing date September 8, 2020, Appellant failed to appear.
- Exhibit 4: HC Appeals Unit Notice of Hearing dated February 16, 2021.
- Exhibit 5: Appeal Case Information from Schedule HC.
- Exhibit 6: Appellant's 2019 1099-HC with correspondence from health insurer.
- Exhibit 7: Appellant's 2019 IRS Form 1095-C.
- Exhibit 8: Invoice statements.
- Exhibit 9: HC Open Request Form.
- Exhibit 10: Appellant's 2019 IRS Form 1095-B.

FINDINGS OF FACT

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

1. Appellant turned 26 years old and resided in Norfolk County in 2019. (Exhibit 5).

2. Appellants filed her 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$134,792. (Exhibit 5).

3. Appellant had health insurance coverage from October through December of 2019. (Exhibit 5).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that she was covered under at least one, and possibly two, health insurance plans for all of 2019 – a plan through her own employer, and a plan through her parent’s employer. (Exhibit 1; Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, she is entitled to a three-month grace period, and she is appealing a six-month tax penalty for 2019. (Exhibit 5).

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

According to Schedule HC for 2019 Table 2, I find that Appellant’s 2019 Adjusted Gross Income of \$134,792 made her ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 26 and living in Norfolk County, \$257 per month to purchase an individual plan on the private insurance market. Based on the

Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$134,792, could afford to pay \$898 monthly for an individual plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

At hearing Appellant testified that she had health insurance coverage for the entirety of 2019 under her parent's employer sponsored health insurance ("ESI"). (Exhibit 1; Appellant Testimony). Appellant was not able to definitely testify, she thinks she may have also been (double) covered under her own ESI for a portion of 2019. (Appellant Testimony). While Appellant testified that she believed she had submitted IRS Form 1095-B showing coverage under her parent's ESI prior to the hearing, pertinent documents available at the time of hearing included solely Appellant's 2019 1095-C from her own employer and a MA 1099-HC form, neither of which show or elucidate Appellant's 2019 health insurance coverage. (Exhibits 6 and 7; Appellant's Testimony). The hearing record was kept open for Appellant to submit evidence showing coverage. (Exhibit 9).

Appellant timely submitted IRS Form 1095-B for 2019, showing she was covered under her parent's ESI for all months in 2019. (Exhibit 10). While this Form 1095-B indicates an out-of-state insurer and preference would have been for Appellant to submit, in addition to the 1095-B, a Summary of Plan Benefits so that the hearing officer could assess whether this plan meets Massachusetts' Minimum Creditable Coverage ("MCC") requirements, this was not requested of Appellant, and she will not be faulted for failing to do so.

Based on Appellant's credible testimony, supported by submission of her parent's 2019 IRS Form 1095-B, I find that Appellant was covered under her parent's ESI for the entirety of 2019.

Accordingly, Appellant's appeal is **GRANTED** and her six-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-512

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

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

Hearing Date: March 10, 2021

Decision Date: April 30, 2021

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant Husband (“Appellant”) appeared at the hearing, which was held by telephone on March 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for Appeal.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: HC Appeals Unit Notice of Hearing dated August 3, 2020.
- Exhibit 4: Appellant’s letter in support of this appeal.
- Exhibit 5: HC Appeals Unit Notice of Hearing dated February 16, 2021.

FINDINGS OF FACT

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

1. Appellant turned 29 years old and resided in Norfolk County in 2019. (Exhibit 2).
2. Appellants filed their 2019 Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income of \$77,074. (Exhibit 2).
3. Appellant had no health insurance for the entirety of 2019. (Exhibit 2).

4. Appellant Wife had health insurance coverage through her employer for all months in 2019. (Exhibit 2).

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

ANALYSIS AND CONCLUSIONS OF LAW

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which the individual did not have health insurance. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 C.M.R. 6.08.

In support of their appeal, Appellants claim that the expense of purchasing health insurance for Appellant in 2019 would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibits 1 and 4).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2019, the three-month grace period is inapplicable and he is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

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

According to Schedule HC for 2019 Table 2, I find that Appellants’ 2019 Adjusted Gross Income of \$77,074 made them ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of two). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, ages 29 and 24 and living in Norfolk County, \$514 per month to purchase a family plan, and \$257 to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return as married filing jointly, with no dependents, with an annual Adjusted Gross Income of \$77,074,

could afford to pay \$514 monthly for an family plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was affordable for Appellants in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that his wife is enrolled in her employer’s health insurance, paying \$200 per month, and that she was covered for the entirety of 2019. (Exhibit 2; Appellant Testimony). Appellant testified that he was covered through Connector Care in 2018, paying \$160 per month, with this cost increasing to \$400 per month for 2019. Appellant testified that the entity for whom he acts as a ride-share driver did not offer him employer sponsored health insurance (“ESI”) in 2019. (Appellant Testimony). Appellant, however, was not able to offer a credible reason for failing to add himself to his wife’s ESI, which, at \$200 per month, would have cost them only slightly more per month than Appellant was paying for his 2018 Connector Care plan. (Appellant Testimony). I find that Appellants had access to affordable ESI in 2019.

A determination must be made whether Appellants experienced a financial hardship such that they could not purchase otherwise affordable health insurance for Appellant. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2019 he and his wife had the following monthly expenses for basic necessities, totaling \$2,770 per month: rent - \$800; heat - \$185; car payments - \$740; car insurance - \$365; telephone - \$180; food - \$500. (Appellant’s Testimony). Appellants’ approximate gross monthly income in 2019 was \$6,422, well over their monthly expenses for necessities. (Exhibit 2). I conclude that the cost of purchasing health insurance for Appellant would not have caused Appellants to experience a serious deprivation of basic necessities in 2019, and that Appellants did not experience a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant’s appeal is **DENIED** and his twelve-month 2019 Tax Penalty is **UPHELD**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-799

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2016 Tax Year Penalty
Hearing Date: February 12, 2021
Decision Date: April 6, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Correspondence from the Health Connector, dated January 19, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2016
- Exhibit 3: Notice of Appeal, dated June 25, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 54 years old in 2016. Appellant filed a Massachusetts 2016 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Barnstable County, MA in 2016 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$47,525 in 2016 (Exhibit 2).
4. Employer sponsored health insurance was not available to Appellant (Testimony of Appellant).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
6. According to Table 3 of Schedule HC for 2016 a person filing as single with no dependents claimed with an adjusted gross income of \$47,525 could afford to pay \$322 per month for private insurance. According to Table 4, Appellant, age 54 and living in Barnstable County could have purchased private insurance for \$373 per month.
7. Private insurance was not considered to be affordable for Appellant in 2016 (Schedule HC for 2016).

8. According to Table 2 of Schedule HC for 2016, Appellant, earning more than \$35,310 was not income eligible for government subsidized health insurance.
9. Appellant did not have health insurance for twelve months in 2016 (Testimony of Appellant and Exhibit 2).
10. Appellant has been assessed a penalty for twelve months for 2016 (Exhibit 2).
11. Appellant filed a hardship appeal on June 25, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2016, Appellant would not have been income eligible for subsidized health insurance. Also, private health insurance was not considered affordable for Appellant.

I find that affordable health insurance was not available to Appellant in 2016 and that the penalty assessed against Appellant for 2016 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 2016 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-800

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2016 Tax Year Penalty
Hearing Date: February 12, 2021
Decision Date: April 7, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Correspondence from the Health Connector, dated January 19, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2016
- Exhibit 3: Notice of Appeal, dated September 7, 2020
- Exhibit 4: Documents in support of appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 38 years old in 2016 and resided in Middlesex County (Exhibit 2).
2. Appellant filed a Massachusetts 2016 tax return as single with no dependents claimed (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2016 of \$41,099 (Exhibit 2).
4. Appellant struggled to pay basic expenses, which included mortgage, condo fee, utilities, food for a specialized diet, student loans and medical expenses.
5. Appellant fell behind in the electricity bill and the electricity was shut off in early 2016 (Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
7. According to Table 3 of Schedule HC for 2016 a person filing as single with no dependents with an adjusted gross income of \$41,099 could afford to pay \$253 per month for private insurance. According to Table 4,

Appellant, who was 38 and lived in Middlesex county could have purchased private insurance for a cost of \$221 per month.

8. Private insurance was considered affordable for Appellant in 2016 (Schedule HC for 2016).
9. Appellant, earning more than \$35,310 would not have been income eligible for government subsidized health insurance (Schedule HC for 2016).
10. Appellant did not have health insurance for twelve months in 2016 (Testimony of Appellant and Exhibit 2).
11. Appellant has been assessed a penalty for twelve months for 2016 (Exhibit 2).
12. Appellant filed a hardship Appeal on August 27, 2020 (Exhibit 3).
13. Appellant obtained health insurance in 2017 and has been insured since 2017 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was considered to be able to afford private health insurance in 2016, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities and Appellant’s electricity was shut off. I find that Appellant suffered a hardship and health insurance was not affordable for the months assessed in 2016. See Schedule HC for 2016, 956 CMR 6.08 (1)(b), Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2016 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 2016 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-801

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2016 Tax Year Penalty
Hearing Date: February 12, 2021
Decision Date: April 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 12, 2021. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant.

Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated January 19, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2016
- Exhibit 3: Notice of Appeal, dated October 18, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 56 years old in 2016. Appellants filed a Massachusetts 2016 tax return as married filing jointly with no dependents claimed (Exhibit 2).
2. Appellants resided in Essex County, MA in 2016 (Exhibit 2).
3. Appellants had an Adjusted Gross Income of \$72,885 in 2016 (Exhibit 2).
4. Employer sponsored health insurance was not available to Appellants in 2016 (Testimony of Appellant).
5. Appellants had had health insurance through the Health Connector in 2014 and for part of 2015 (Testimony of Appellant).
6. In 2015, the premium for the Health Connector plan doubled (Testimony of Appellant).
7. In 2015, Appellants income was very sporadic and had decreased (Testimony of Appellant).
8. In 2015, Appellants stopped paying for the Health Connector insurance (Testimony of Appellant).
9. Appellants were unable to get reinstated to the Health Connector insurance until they could pay the premium payments that they had missed (Testimony of Appellant).

10. Appellants' income was very sporadic in 2016. Sometimes they would not have any income for three to four months (Testimony of Appellant).
11. Appellants struggled to pay their bills in 2016. They fell behind in their utility bills (Testimony of Appellant).
12. Appellants received shut off notices for utilities in 2016 (Testimony of Appellant).
13. Appellants were enrolled in health insurance beginning in September 2016 (Exhibit 2 and Testimony of Appellant).
14. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
15. According to Table 3 of Schedule HC for 2016 a couple filing as married filing jointly with no dependents claimed with an adjusted gross income of \$72,885 could afford to pay \$494 per month for private insurance.
16. According to Table 4, Appellants, age 56 and living in Essex County could have purchased private insurance for \$646 per month.
17. Private insurance was not considered to be affordable for Appellants in 2016 (Schedule HC for 2016).
18. According to Table 2 of Schedule HC for 2016, Appellants, earning more than \$47,790 were not income eligible for government subsidized health insurance.
19. Appellants did not have health insurance for eight months in 2016 (Testimony of Appellant and Exhibit 2).
20. Appellants have been assessed a penalty for five months for 2016 (Exhibit 2).
21. Appellants filed a hardship appeal on October 18, 2020, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2016, Appellants would not have been income eligible for subsidized health insurance. Also, private health insurance was not considered affordable for Appellant.

I find that affordable health insurance was not available to Appellants in 2016 and that the penalty assessed against Appellants for 2016 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2016 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-258

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: March 22, 2021
Decision Date: April 20, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Correspondence from the Health Connector, dated February 5, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 27, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 29 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$30,277 (Exhibit 2).
4. In 2019, Appellant worked part time hours, and was hoping to be offered a full time position. Appellant was not offered a full time position (Testimony of Appellant).
5. Employer sponsored health insurance was not available to Appellant in 2019 (Testimony of Appellant).
6. During 2019, Appellant also tried to start a business and invested in equipment for the business (Testimony of Appellant).
7. Appellant did not make any money from the business in 2019 (Testimony of Appellant).
8. Appellant made very little in 2017 and 2018 and had taken loans from friends (Testimony of Appellant).
9. In 2019, Appellant tried to pay back some of the money owed from previous years (Testimony of Appellant).
10. Appellant had the following monthly expenses during 2019: rent \$600; utilities \$122; food \$465; supplies \$150; car payment \$316; car insurance \$65; gasoline and car maintenance \$103; tolls \$50; student loans \$413.

Additionally, Appellant spent \$247 per month for equipment for the new business. Appellant's monthly expenses were \$2,531.

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

12. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$30,277 could afford to pay \$106 per month for private insurance. According to Table 4, Appellant, 29 years old and living in Middlesex County could have purchased private insurance for \$257 per month.

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

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

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

16. Appellant began health insurance coverage in 2020 (Testimony of Appellant).

17. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).

18. Appellant filed a hardship appeal on March 27, 2020 (Exhibits 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was not eligible for employer sponsored health insurance in 2019. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would have been income eligible for subsidized health insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant had monthly expenses of \$2,531. Appellant's monthly income before taxes was \$2,523. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Exhibits 2, 3, 4, Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-487

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 29, 2021

Decision Date: April 7, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 29, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 4, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 10, 2020.
- Exhibit 4: Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 38 in September 2019, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$44,316 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 and is being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in April 2020 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$44,316 could afford to pay \$281 per month for health insurance. In accordance with Table 4, the Appellant age 38, living in Plymouth County, could have purchased private insurance for \$286 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
8. The Appellant testified that they had health insurance through their employer in 2018. At the end of that year the Appellant said that they attempted to sign up for the same insurance for tax year 2019 but apparently made a mistake and clicked the wrong button. The Appellant explained that they did not find out about the error until the end of March or early April when they attempted to obtain dental care. The Appellant's provider told them that they were no longer insured. The Appellant said that they immediately called Human Resources and was informed that they had opted out at the end of 2018. The Appellant said that they were told that even though it was a mistake, the Appellant could not enroll until the open enrollment period for tax year 2020. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).
9. Because of their data entry mistake, the Appellant had no access to employer sponsored health insurance in tax year 2019 (Appellant Testimony).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
11. The Appellant testified that they looked to purchase private insurance, but it was too expensive (Appellant Testimony).
12. In tax year 2019 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (Exhibits 2, 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$44,316 could afford to pay \$281 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Worcester County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

Due to a data entry error, the Appellant inadvertently opted out of their employer's health insurance plan while attempting to reenroll in a plan at the end of tax year 2018. The Appellant did not discover the error until the end of March 2019 when they attempted to obtain dental services and were informed by their provider that their insurance was cancelled. The Appellant contacted their employer but was told that since open enrollment had ended, the Appellant could not enroll in their 2018 plan until the open enrollment period of tax year 2020.

The Appellant did not have access to affordable employer sponsored insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$44,316 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-523

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

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

Hearing Date: March 10, 2021

Decision Date: April 30, 2021

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on March 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Appellant objected to admission of all exhibits, offering no credible reason for his objection. Accordingly, exhibits were marked and admitted into evidence. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for Appeal dated April 20, 2020.
- Exhibit 2: HC Appeals Unit Notice of Hearing dated August 3, 2020.
- Exhibit 3: Appeal Case Information from Schedule HC.
- Exhibit 4: HC Attendance Sheet for hearing scheduled September 11, 2020, Appellant failed to appear.
- Exhibit 5: Appeal Case Information from Schedule HC, showing dismissal vacated.
- Exhibit 6: HC 2015 Appeal decision dated December 7, 2017.

FINDINGS OF FACT

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

1. Appellant turned 41 years old and resided in Suffolk County in 2019. (Exhibits 3-4).
2. Appellants filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$60,180. (Exhibits 3-4).

3. Appellant had no health insurance in 2019. (Exhibit 3; Appellant Testimony).
4. Appellant appealed a penalty assessed for Tax Year 2016, which was dismissed for failure to submit documents in support of the appeal.
5. Appellant appealed a penalty assessed for Tax Year 2017; after hearing, penalty was upheld. (Exhibit 4).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant asserts that health insurance is unaffordable for him, and offers general objections to the individual mandate statute. (Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2019, the three-month grace period is inapplicable and Appellant is appealing a twelve-month tax penalty for 2019. (Exhibits 3-4).

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

According to Schedule HC for 2019 Table 2, I find that Appellant’s 2019 Adjusted Gross Income of \$60,180 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 41 and living in Suffolk County, \$306 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$60,180, could afford to pay \$401 monthly for an individual plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that he was employed in 2019 with an employer offering employer sponsored health insurance (“ESI”). (Appellant’s Testimony). Appellant declined to enroll in this ESI based on his belief that at \$300 per month the cost of this insurance was too high. (Appellant’s Testimony). Appellant testified that it is cheaper for him to pay the penalty than purchase health insurance, despite complaining about the increase in the amount of the penalty assessed against him year after year. (Appellant’s Testimony). Based on Schedule HC for 2019 Table 3, *supra*, I find that Appellant had access to affordable ESI in 2019.

A determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, or if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2019 he had the following monthly expenses for basic necessities, totaling \$2,620 per month: rent - \$1,200; utilities- \$220; car insurance - \$240; telephone - \$160; food - \$800. (Appellant’s Testimony). Appellants’ approximate gross monthly income in 2019 was \$5,000, well over his monthly expenses for necessities. (Exhibit 2). I conclude that the cost of purchasing health insurance would not have caused Appellant to experience a serious deprivation of basic necessities in 2019, and that Appellant did not experience a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellant’s appeal is **DENIED** and his twelve-month 2019 Tax Penalty is **UPHELD**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-524

Appeal Decision: ___Penalty Upheld XXPenalty Overturned in Full ___Penalty Overturned in Part

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

Hearing Date: March 10, 2021

Decision Date: April 20, 2021

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of M.G.L. c. 30A and c. 111M, 45 C.F.R. 155, 801 C.M.R. 1.02, 956 C.M.R. 6.07, 956 C.M.R. 12.00, and the rules and regulations promulgated thereunder.

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on March 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for Appeal dated April 13, 2020.
- Exhibit 2: HC Appeals Unit Notice of Hearing dated August 3, 2020.
- Exhibit 3: Appeal Case Information from Schedule HC dated August 4, 2020.
- Exhibit 4: Appeal Case Information from Schedule HC dated September 11, 2020.
- Exhibit 5: HC Attendance Sheet for hearing scheduled September 16, 2020, Appellant failed to appear.
- Exhibit 6: Letter from Appellant dated October 2, 2020.
- Exhibit 7: Appeal Case Information from Schedule HC dated October 9, 2020 showing dismissal vacated.
- Exhibit 8: HC Appeals Unit Notice of Hearing dated February 16, 2021.
- Exhibit 9: HC Open Record Request for hearing occurring March 10, 2021.
- Exhibit 10: Correspondence dated March 10, 2021 from Appellant's health insurer.
- Exhibit 11: Correspondence from Appellant's health insurer with note from Appellant, received by HC March 25, 2021.

FINDINGS OF FACT

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

1. Appellant turned 54 years old and resided in Suffolk County in 2019. (Exhibits 3-4).
2. Appellants filed her 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$58,623. (Exhibits 3-4).
3. Appellant had employer sponsored health insurance from January through April of 2019, and then again in December of 2019. (Exhibits 1, 3-4, and 10; Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that after her employer laid her off in April of 2019, she could not afford to purchase the employer sponsored health insurance (“ESI”) offered to her by subsequent temporary employment agencies for whom she worked until finding full-time employment again in October of 2019. (Exhibit 1; Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance from January through April of 2019, and again in December of 2019, she is entitled to two separate three-month grace periods. Appellant is appealing an eight-month tax penalty for 2019. (Exhibits 3-4).

The issue before me is whether the eight-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2019 Schedule HC Instructions

and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$58,623 made her ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 54 and living in Suffolk County, \$406 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$58,625 could afford to pay \$391 monthly for an individual plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was not affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Despite self-reporting that she had no insurance for any month in 2019 other than December, Appellant testified, and submitted supporting documentation, that she had ESI from January through April of 2019, when her employer laid her off and she lost her ESI. (Exhibits 1, 3-4 and 10; Appellant Testimony). Appellant testified that after her lay-off she began working for a series of temporary employment agencies offering ESI; however, Appellant believed she could not afford the premiums. (Exhibit 1; Appellant Testimony). Appellant testified she was hired full-time in October by an employer with whom the temporary agency had placed her. This employer offered ESI after a waiting period, and Appellant enrolled as soon as she was eligible, with coverage beginning in December of 2019. (Exhibit 1, 3-4; Appellant Testimony).

Appellant offered somewhat confusing testimony, asserting both that the temporary agencies with whom she worked offered ESI, although unaffordable, but also that one needed to work a certain number of hours with these agencies to be offered ESI. (Exhibit 1). I find that Appellant had access to ESI from May through August of 2019.

Appellant has been assessed an eight-month penalty; in other words, she has been granted one three-month waiver, based on her self-reporting health insurance coverage solely for December. (Exhibits 3-4). However, because Appellant submitted documents supporting her claim that she had health insurance in the beginning of the year prior to being laid off, as well as December, she is entitled to two separate three-month waiver periods. With only one penalty month remaining, I find that waiver of this last month is warranted based on Appellant's ineligibility, in October and November, for enrolling in her employer's health insurance due to her employer's waiting period. (Appellant's Testimony).

Accordingly, Appellant's appeal is **GRANTED** and her eight-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19651

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 12, 2021

Decision Date: April 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on February 12, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until March 17, 2021 to give the appellants time to submit additional evidence. As of the date of this writing, no additional documentation has been received from the appellants. The record of this hearing is now closed.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellants on May 9, 2020 with letter in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 2a: Appeal Case Information from Schedule HC 2019 showing dismissal of appeal on September 29, 2020 and vacating of dismissal on October 9, 2020

Exhibit 3: Notice of Hearing sent to Appellant dated August 17, 2020 for September 25, 2020 hearing

Exhibit 4: Notice of Hearing sent to Appellant dated January 13, 2021 for February 12, 2021 hearing

Exhibit 5: Final Notice of Termination of electricity, dated May 10, 2019 addressed to Appellants

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return jointly with no dependents claimed, were 45 and 40 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Middlesex County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$44,497 (Exhibit 2, Testimony of Appellant).
4. One of the appellants was employed all year. The other appellant was unemployed (Testimony of Appellant).

5. The appellant who was employed was offered health insurance for him and his spouse by his employer. The cost would have been \$400 a month (Testimony of Appellant)
6. The appellants did not have health insurance which met the Commonwealth's minimum creditable coverage standards all of 2019 (Testimony of Appellant, Exhibit 2).
7. The appellants have been assessed a penalty for all of 2019. They have appealed the assessment (Exhibits 1 and 2, Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$44,497 could afford to pay \$296 per month for health insurance. According to Table 4, Appellants, ages 45 and 40 and living in Middlesex County, could have purchased insurance for \$699 per month for a plan for a married couple. Coverage would have been unaffordable for the appellants (Schedule HC for 2019, Tables 3 and 4; Exhibit 2; Testimony of Appellant).
11. According to Table 2 of Schedule HC for 2019, Appellants earning less than \$49,380, the income limit for a family of two, would have been eligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq.).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in rent or mortgage payments in 2019 (Testimony of Appellant).
13. Appellants received a shut-off notice for electricity during 2019 (Testimony of Appellant, Exhibit 5).
14. Appellants had the following monthly expenses for basic necessities in 2019: mortgage-\$0.00; water-\$172; property taxes-\$500; electricity-\$200; heat-\$190; telephone and internet-\$259; food and household and personal items-\$930; public transportation-\$132; clothing-\$135. The appellants also spent \$1000 on dental care, about \$600 for home repairs, and about \$5,000 for funeral expenses after the death of a family member during the year (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$44,497 could afford to pay \$296 per month for health insurance. According to Table 4, Appellants, ages 45 and 40 and living in Middlesex County, could have purchased insurance for \$699 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants. See Schedule HC for 2019, Tables 3 and 4; Exhibit 2; and the testimony of Appellant which I find credible.

One of the appellants was unemployed. The other was employed and was offered health insurance for him and his spouse by his employer. The insurance would have cost \$400 a month, more than the amount deemed affordable for the appellants, \$296. See Schedule HC for 2019, Tables 3 and 4; Exhibit 2; and the testimony of Appellant which I find credible.

Appellants could have obtained affordable coverage through the Connector’s ConnectorCare program. based upon their income. The couple earned less than the income cap for a household of two (\$49,380). See Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq. But we also need to consider the affordability of the coverage offered to them through employment when determining their eligibility for the ConnectorCare coverage.

ConnectorCare coverage, which is subsidized in part by an advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable under standards set by the Patient Protection and Affordable Act. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is less than 9.86% of the employee’s modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f). 9.86% of the appellant’s modified adjusted gross income of \$44,497 equals \$365 per month ($\$44,497 \times 9.86\% = \$4,387$. That amount divided by 12 = \$365). Appellants had access to insurance through employment which would have cost \$400 a month. This coverage was deemed to be unaffordable pursuant to the Affordable Care Act. Since the insurance offered through employment was unaffordable, the appellants were eligible to obtain ConnectorCare coverage. See also Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq., and the testimony of the appellant which I find to be credible.

Since affordable coverage was available to the uninsured appellant through the ConnectorCare program, we need to consider whether the appellants had a financial hardship such the the cost of purchasing health insurance would have caused them to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellants had the following monthly expenses for basic necessities in 2019: mortgage-\$0.00; water-\$172; property taxes-\$500; electricity-\$200; heat-\$190; telephone and internet-\$259; food and household and personal items-\$930; public transportation-\$132; clothing-\$135. During the year, the appellants also spent \$1,000 on dental care, about \$600 for home repairs, and about \$5,000 for funeral expenses after the death of a family member. They also

received a termination notice for their electricity in May. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellants had a financial hardship such that the cost of purchasing health insurance would have been unaffordable for them. See 956 CMR 6.08 (1)(b) and 956 CMR 6.08 (3). 6.08(1)(b) provides that a termination or notice of termination of a basic utility, such as electricity, constitutes a financial hardship such that health insurance is deemed to be unaffordable. 6.08(3) permits the Connector to take into consideration financial issues raised by the appellant during the appeal. In this matter, Appellants received a termination notice for their electricity during 2019 and the appellants had significant, unexpected expenses related to the death of a family member. Appellants paid for funeral expenses amounting to \$5,000.

Appellants' penalty is waived because of financial hardship.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Addendum: Appellant claimed during the hearing that the appellants had health insurance coverage during the year. They were given over a month to submit proof of the coverage. No proof was received from the appellants, so I did not take that claim into consideration.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-653

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 31, 2021

Decision Date: April 16, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 31, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Notice of Hearing dated August 17, 2020

Ex. 3—Hearing Attendance Sheet dated September 20, 2020

Ex. 4—Health Connector's Notice of Dismissal of Appeal dated September 30, 2020

Ex. 5—Request to Vacate Dismissal received on October 15, 2020

Ex. 6—Health Connector's Notice to Vacate Dismissal dated October 19, 2020

Ex. 7—Appeal Case Information from Schedule HC ¹

Ex. 8—Notice of Hearing dated March 4, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 35-years-old, is single and does not have children. In 2019, she had health insurance from January through May. (Testimony, Ex. 7)
2. The appellant has been an international student in the U.S. since 2017 when she arrived on a J-1 visa. She anticipated that she would be able to obtain student health insurance through her school, but was advised that she was not eligible due to her visa status. She eventually was able to enroll in insurance

1

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

through an international student health insurance organization. The policy cost approximately \$300.00 and offered a limited range of benefits with a \$400.00 deductible, and maximum coverage of \$125,000.00 per injury or sickness, as well as coverage for medical evacuation and repatriation of remains. The appellant had no income in 2017 and did not file a tax return. (Testimony, Ex. 1)

3. Although she initially planned to return to her country within two years of her arrival in 2017, the appellant extended her visa in 2018 for another two years. She also renewed the same health insurance for the period of November, 2018-May, 2019, but the deductible was lowered to \$100.00 and the coverage per injury/sickness was reduced to \$100, 000.00. She was employed in 2018 and filed a tax return, but does not recall if she was subject to a tax penalty for non-compliant insurance. (Testimony, Ex. 1)
4. After the May, 2019 expiration of her health insurance, the next period of coverage the appellant obtained was from November, 2020 until March, 2021. She was employed in 2019 and filed a tax return which she prepared herself. She indicated on her Schedule HC that she had minimum creditable coverage (MCC) insurance for the months of January through May. (Testimony, Exs. 1,7)
5. The appellant recently extended her visa until May, 2022. (Testimony)
6. Massachusetts minimum creditable coverage (MCC) plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03. <http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>
7. The appellant reported an adjusted gross income of \$28,961.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 8)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019, but did not specify a ground for the appeal. She also submitted a letter with her statement in which she stated in part that she had insurance which was not good, and other insurance coverage

was too expensive for her budget. She further stated that she was unable to obtain “full” insurance from her school because she was a visiting scholar.

Although the appellant indicated on her Schedule HC that she had MCC health insurance from January through May, for reasons discussed below, it is concluded that she did not have MCC-compliant insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. While the appellant was assessed and is appealing a penalty of four months based on the information she submitted on her Schedule HC, she should have been assessed a penalty of twelve months.

The appellant testified that she arrived in the U.S. in 2017 as an international student on a J-1 visa and was unable to obtain health insurance through her school. She testified that she was eventually able to obtain insurance through an international student organization. She testified that in 2018, she renewed her student visa for two years, and recently renewed it again through 2022. She testified that she also renewed the same health insurance from November, 2018 through May, 2019, and then from November, 2020 through March, 2021.

The appellant’s contention that she was unable to obtain health insurance through her school because of her international student visa, and only qualified for the type of insurance she purchased, seems dubious at best. The appellant has now been an adult resident of Massachusetts for four years, and as such, she is subject to the individual mandate. Pursuant to state law, students enrolled in a certificate, diploma or degree granting program in a state college, university or other institution of higher learning must participate in a school-sponsored student health insurance program or an alternate health plan with comparable coverage. See M.G.L.c.15A, section 18 and 114.6 CMR 3.00.

With respect to the international student health insurance the appellant purchased, there are a couple of issues to address. First, for 2019, the appellant only had insurance from January through May, and did not provide an explanation as to why she had no coverage for the rest of the year. Second, the plan in which she enrolled does not contain any of the key elements set forth in Finding No. 8, and is not therefore considered to meet MCC standards required by the state. While there is no dispute that the plan provides limited coverage for injury and illness, it simply does not provide a broad range of medical benefits as defined in 956 CMR 5.03.

As a new international student in 2017, it was not unreasonable for the appellant to be unfamiliar with, and perhaps confused by state health insurance requirements, particularly if her school did not provide appropriate guidance and assistance. However, four years in, she can no longer rely on that newcomer status as an excuse for her failure to obtain MCC-compliant insurance. The more likely explanation is that she believed the cost of insurance was unaffordable, as she indicated in her letter. Even if her school was unable to offer her anything, her income of \$28,961.00 in 2019 was below 300% of the Federal Poverty Level and would have qualified her for subsidized insurance through the Health Connector, if she met all other criteria.

Based on the totality of the evidence, it is concluded that the appellant’s health insurance for the months of January through June did not comply with MCC requirements, and she should have been assessed a penalty of twelve months. However, the penalty will be waived in light of the fact that she did enroll in a basic level of insurance for part of the year, thereby demonstrating that the mandate to purchase insurance was not completely lost on her.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-685

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 31, 2021

Decision Date: April 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 31, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 2—Notice of Hearing dated September 3, 2020
- Ex. 3—Hearing Attendance Sheet dated October 5, 2020
- Ex. 4—Health Connector's Notice of Dismissal of Appeal dated October 6, 2020
- Ex. 5—Request to Vacate Dismissal dated December 12, 2020
- Ex. 6—Health Connector's Notice to Vacate Dismissal dated December 18, 2020
- Ex. 7—Appeal Case Information from Schedule HC ¹
- Ex. 8—Notice of Hearing dated March 4, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 37-years-old, is single, and does not have children. She resided in Bristol County, MA in 2019. She did not have health insurance in 2019. (Testimony, Ex. 7)
2. Prior to 2019, the appellant had subsidized health insurance through the Health Connector from 2015 through 2018. In 2019, her premium went up from \$83.00/month to approximately \$300.00/month for the same plan, which she could not afford. (Testimony, Ex. 1)

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

3. The appellant has worked for the same employer for several years. The employer offered health insurance in 2019 for which she was eligible. The monthly premium for an individual plan was approximately \$200.00 which she could not afford. She was able to enroll in employer health insurance in 2020, and continued her enrollment for 2021. (Testimony, Ex. 1)
4. By 2019, the appellant had accumulated approximately \$12,900.00 of debt across four credit lines which she was able to consolidate at the beginning of 2020. She qualified for fuel assistance in the amount of \$500.00 for the winter of 2019-2020. She had large medical bills in 2019 and had to cover the expense herself due to the absence of insurance. (Testimony, Ex. 1)
5. The appellant reported an adjusted gross income of \$34,749.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 7)
6. In 2019, the appellant had regular monthly expenses of approximately \$1502.00 for rent (\$775.00); heat and electricity (\$125.00); cell phone (\$60.00); automobile insurance (\$142.00); food (\$300.00) and gasoline (\$100.00). In addition, she paid approximately \$350.00/month for credit card debt. (Testimony, Ex.1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. She also submitted a letter with her statement in which she stated in part that she was unable to continue her health insurance through the Connector in 2019 due to a large increase in the premium. She further stated that she had accumulated significant debt over the previous years, and that that situation coupled with her other regular monthly expenses did not leave any room to cover an insurance premium.

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

The appellant testified credibly that from 2015 through 2018, she had subsidized health insurance through the Connector. She testified that in 2019, her premium increased from \$83.00/month to approximately \$300.00/month which she could not afford. She testified that she had accumulated approximately \$12,900.00 in debt over the previous years, and that that payment in addition to her regular monthly expenses did not leave any

money for her to cover health insurance. She testified that she was eligible for employer health insurance but could not afford the monthly premium of approximately \$200.00. Finally, she testified that she consolidated her debt at the beginning of 2020 and has been enrolled in employer health insurance for 2020 and 2021.

The evidence provided by the appellant established that her income for 2019, \$34,749.00, was less than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$30,351.00 and \$36,420.00 is deemed to be able to afford a monthly premium of \$144.79 (5.00% of \$34,749.00/12). Table 4 of the Premium Schedule indicates that a 36-year-old individual (the age of the appellant in 2019) in Bristol County (where the appellant resided in 2019) could have purchased private health insurance for \$286.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The appellant provided information which indicated that the approximate cost for an individual plan through her employer was \$200.00 per month.² Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86% or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$200.00. That cost is less than 9.86% of the appellant's projected household MAGI for 2019 (i.e. 9.86% of \$34,749.00 is \$3426.25 or \$285.52/month).³ Hence, since the cost of employer insurance is less than \$285.52/month, she is considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Based on the foregoing analysis, since the appellant is deemed to have had access to affordable employer health insurance, she would not have qualified for subsidized health insurance through the Health Connector, despite the fact that her income for 2019 was less than 300% of the FPL.

Even though employer health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in

² Since the appellant appeared to have a firm recollection of the cost of employer insurance, no Open Record Request was made at the conclusion of the hearing for documentation from the employer regarding the cost and terms of its health insurance in 2019.

³ A MAGI figure was not obtained at the hearing and the record was not held open for documentation to make that calculation. It is recognized that the federal adjusted gross income (AGI) is not the same number as MAGI since the latter number starts with AGI and then adds in certain income sources such as tax-exempt interest, taxable social security and foreign earned income. See 26 USC section 36B(d)(2)(b) and 956 CMR 12.04. Notwithstanding this discrepancy, based on the appellant's testimony, the two numbers were probably very close, if not the same, in which case it is not unreasonable to use the AGI number for purposes of this calculation.

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

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$1852.00, including her credit card debt. Those expenses were less than her regular monthly pre-tax income of approximately \$2896.00, thereby making an employer insurance premium of \$200.00 seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1044.00 per month is not a panacea, it does not appear on its face that the payment of \$200.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded employer insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reasons. First, although this analysis indicates otherwise, the appellant offered substantial and credible testimony which established that she was in financial distress in 2019 due to several years of accumulated debt. This reality was underscored by the fact that she qualified for fuel assistance at the end of 2019 in the amount of \$500.00. Second, the appellant was enrolled in health insurance for four years preceding 2019, and testified that she has been enrolled in employer health insurance since the beginning of 2020, thereby demonstrating that the mandate to obtain insurance was not lost on her.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-702

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 29, 2021

Decision Date: April 6, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 29, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 4, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 22, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with an attachment.
- Exhibit 5: Health Connector Appeals Unit Notice regarding a hearing previously scheduled for October 13, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 40 in October 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$26,640 (Exhibit 2).
4. According to the Appellant's Schedule HC-2019 the Appellant had health insurance for the period of October through December but did not have health insurance for the period of January through September in tax year 2019 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a six-month tax penalty for 2019. The Appellant filed an appeal of the assessment in May 2020 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$26,640 could afford to pay \$93 per month for health insurance. In accordance with Table 4, the Appellant, age 40, living in Norfolk County, could have purchased private insurance for \$306 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant did not have access to employer sponsored health insurance during the period of January through September in tax year 2019. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they started a business and for the months of January through September they had no income. The Appellant said that they cashed out their retirement account to meet their living expenses. The Appellant explained that they were hired in September 2019 and enrolled in health insurance in October when they were able to pay the premium (Exhibits 3, 4 and Appellant Testimony).
10. The Appellant's 2019 monthly expenses of \$3,233 included: rent- \$2,200; gas and electricity- \$100; water-\$25; car payment-\$464; gasoline-\$217; and food-\$217. The Appellant deferred their student loan payments. The Appellant said that because they had no income for the first eight months of tax year 2019, they had to conserve the income in their retirement account and could not afford to pay for health insurance. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for the period of January through September in tax year 2019 and therefore is potentially subject to a six month tax penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$26,640 could afford to pay \$93 per month for health insurance. According to Table 4, the Appellant, age 40, living in Norfolk County, could have purchased a private insurance plan for \$306 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant testified that they started a business and during the period of January through August had no income. The Appellant was hired in September and enrolled in health insurance in October when they were able to pay the premium. The Appellant testified to monthly living expenses of \$3,233 and explained that they used the funds in their retirement account to live on. The Appellant said that they did not want to take on another expense without having income. The Appellant has demonstrated that for the period of January through September in tax year 2019 purchasing health insurance would have caused them to experience a significant financial hardship. The Appellant's six-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-708

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 29, 2021

Decision Date: April 6, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 29, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 4, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 26, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 35 in June 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$35,622 (Exhibit 2).
4. The Appellant had health insurance in February but did not have health insurance for the month of January or the period of March through December in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in May 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$35,622 could afford to pay \$148 per month for health insurance. In accordance with Table 4, the Appellant, age 35, living in Middlesex County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant was employed at a local grain store that did not provide employer sponsored health insurance in tax year 2019. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that in January 2019 their parent helped them to sign up for ConnectorCare. The Appellant explained that their parent paid the monthly premium for February but for the period of March through December the Appellant was not able to pay the premium (Exhibits 3, 4 and Appellant Testimony).
10. The Appellant lived in a small home on their parent's property. The Appellant did not pay rent but was responsible to pay their parent \$400 to cover utilities. The Appellant's additional living expenses included: truck payment-\$263; truck insurance \$108; gasoline-\$347; telephone-\$140; and food-\$433. The Appellant explained that they are a farm educator and paid \$200 weekly for animal feed. The Appellant said that they struggled to meet their expenses and could not afford a health insurance premium. I found the Appellant to be credible (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$35,622 could afford to pay \$148 per month for health insurance. According to Table 4, the Appellant, age 35, living in Middlesex County, could have purchased a private insurance plan for \$286 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant testified that they were working at a local grain store in 2019. The Appellant is a farm educator and the cost to feed the animals in their care was \$867 per month. In addition, the Appellant verified monthly living expenses of \$1,691 and testified that they struggled to meet their living expenses and feed their animals. The Appellant explained that a parent paid their ConnectorCare premium for the month of February, but with their animal and living expenses they were unable to keep up with the monthly premium payments. The Appellant has demonstrated that in tax year 2019 purchasing health insurance would have caused them to experience a significant financial hardship. The Appellant's seven-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-719

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: March 29, 2021

Decision Date: April 7, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 29, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated March 4, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 20, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 27 years old in August 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$48,947 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in April 2020 citing grounds other than financial hardship (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$48,947 could afford to pay \$326 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Middlesex County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare in tax year 2019 because their income of \$48,947 exceeded 300% of the federal poverty level which was \$36,420 for a household of one (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they began working for their employer in August 2018 and enrolled in a health insurance plan through the employer. The employer chose to discontinue this plan in tax year 2019. The Appellant acknowledges that the employer sent out advance notice of the change, but the Appellant said that they did not pay attention and missed open enrollment. The Appellant said that they discovered in March that they were not insured and tried to enroll but was denied. Documents submitted by the Appellant verify that the Appellant was paying \$61.97 per pay period for medical and dental coverage in 2018. As of December 2018, the Appellant was paying a dental premium of \$3.23 only. The Appellant was asked about the increase in their net paycheck and the Appellant indicated that they had direct deposit and did not notice. They said they thought maybe they received a raise. (Exhibit 4 and Appellant Testimony).
10. The Appellant submitted copies of emails from their employer's Human Resources (HR) Department. Human Resources informed the Appellant that several notices regarding the change in insurance were sent out on the company's messaging system. The HR Business Partner also informed the Appellant that information was sent to the Appellant by direct mail. The emails verify that on October 29, 2018 employees were notified of an Open Enrollment Benefit Fair to be held for employees on 11/1/18. Another email was sent on November 15, 2018 reminding employees that open enrollment would end on November 16, 2018 (Exhibit 4).
11. The Appellant was asked if they attempted to obtain insurance on the private market. The Appellant said that they did not try to purchase health insurance on the private market because they thought it was too expensive. The Appellant also said that they were 27 years old in 2019, inexperienced and very busy at work due to the election. The Appellant did not allege or argue any financial hardship that would have prevented them from obtaining health insurance on the private market (Exhibits 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c.176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$48,947 could afford to pay \$257 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Middlesex County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant’s income of \$48,947 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was employed beginning August 2018. The Appellant had enrolled in an employer sponsored health insurance plan and was paying a \$61.97 each pay period for medical and dental coverage. The Appellant’s employer decided to discontinue the plan the Appellant was enrolled in for tax year 2019. The Appellant does not dispute that the employer sent out advance notice of the change, but the Appellant failed to enroll in a new plan during the employer’s open enrollment period. The email documents submitted by the Appellant indicate that the HR Department sent out numerous email messages through the company’s messaging system. HR also indicated that the Appellant would have received information through direct mail. The Appellant does not dispute that messages went out but argues that because they were age 27, were inexperienced and busy they did not follow the directions in the company notifications. The Appellant inquired about coverage in March 2019 and maintains that they did not notice the change in their net pay when the premium payments of \$61.97 per pay period were reduced to \$3.23 for dental only in December 2018.

Finally, the Appellant acknowledged that they did not attempt to purchase health insurance through the private market. The Appellant said they thought it would be too expensive and was not familiar with the system. As noted above, the Appellant did not allege any significant financial hardship that would have prevented them from obtaining health insurance in tax year 2019. With income of \$48,947 and the fact that the Appellant could have purchased private insurance at a cost of \$257 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181140

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 8, 2021

Decision Date: March 31, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellant on March 9, 2020 with Notice to Quit dated August 13, 2018 attached
- Exhibit 2: Appeal Case Information from Schedule HC 2018
- Exhibit 3: Notice of Hearing sent to Appellant dated January 12, 2021 for February 8, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as married, filing separately with two dependents claimed, was 28 years old in 2018 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2018 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$33,493 in 2018 (Testimony of Appellant, Exhibit 2).
4. Appellant had a job from January through June in 2018. Appellant's take-home pay was \$650 a week. Appellant was laid off at the end of June. For the rest of the year, Appellant collected unemployment compensation. Appellant received between \$400 and \$500 a week (Testimony of Appellant).
5. Appellant was offered health insurance through employment. The family plan cost \$1,290 a month and the individual plan cost \$258 a month for the employees (Testimony of Appellant).
6. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards in January and from July through December, 2018. The appellant was uninsured the rest of the year (Testimony of Appellant, Exhibit 2).

7. Appellant has been assessed a penalty for May and June, 2018. Appellant has appealed this assessment, claiming that Appellant was evicted during 2018 (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2018, the appellant with two dependents claimed with an adjusted gross income of \$33,493 could afford to pay \$96 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Worcester County, could have purchased insurance for \$697 per month for a plan for a married individual filing separately with two dependents. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2018 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2018, Appellant, who earned less than \$61,260 per year (the income cap of a family of three), would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, and Exhibit 2).

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

11. Appellant was evicted in 2018. Appellant received a Notice to Quit in August, 2018; the appellant moved later in August (Testimony of Appellant, Exhibit 1 attachment).

12. Appellant did not receive any shut-off notices for basic utilities in 2018 (Testimony of Appellant).

13. In 2018, Appellant leased a car. The car was repossessed in October, 2018 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2018: rent including heat-\$1,200; electricity- \$75 on average; telephone and internet-\$150; food-\$500 on average; car insurance-\$170; gas-\$100; car lease- \$500; clothing and baby products-\$250; payment for consolidation loan-\$450 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant has been assessed for a penalty for May and June, 2018. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had health insurance which met the Commonwealth standards in January and from July through December. Since Appellant is entitled to a three-month grace period after losing coverage, Appellant's penalty for February through April is waived. See the testimony of the appellant which I find to be credible, Exhibit 2 and Massachusetts General Laws, Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2018, the appellant with two dependents claimed with an adjusted gross income of \$33,493 could afford to pay \$96 per month for health insurance. According to Table 4, Appellant, 28 years old and living in Worcester County, could have purchased insurance for \$697 per month for a plan for a married individual filing separately with two dependents. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 2.

Appellant had no access to affordable health insurance through employment in 2018. Appellant was employed from January through June. The employer offered health insurance which would have cost the appellant \$258 a month for an individual plan or \$1,290 a month for a family plan. The coverage was unaffordable for the appellant. See Schedule HC for 2018, Tables 3 and 4, and the testimony of the appellant which I find to be credible.

Given Appellant's income, Appellant could have had affordable coverage through the ConnectorCare program. Appellant's annual Federal Adjusted Income was \$33,493, less than the income limit for a household of three (\$61,260). However, the coverage, which is subsidized in part by an advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable under standards set by the Patient Protection and Affordable Act. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2018 is less than 9.56% of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f). 9.56% of the appellant's modified adjusted gross income of \$33,493 equals \$266 per month ($\$33,493 \times 9.56\% = \$3,201$. That amount divided by 12 = \$266). Appellant had access to insurance through employment which would have cost \$258 a month. This coverage was deemed to be affordable pursuant to the Affordable Care Act. Since the insurance offered through employment was affordable, the appellant was ineligible to obtain ConnectorCare coverage.

There may have been no affordable health insurance available to the appellant during May and June. Under state standards, coverage through employment and on the individual market was unaffordable. Under Federal standards, the coverage through employment was affordable, and the appellant was ineligible for any advance premium tax credit, and therefore, ineligible for coverage under the ConnectorCare program. There is a question as to whether the health insurance offered through employment met the Commonwealth's minimum creditable coverage standards. There is no evidence in the record about this. If the insurance did not meet the standards, then the appellant would have been eligible for affordable insurance through the ConnectorCare program. See 956 CMR 12.00et. seq.

Even if Appellant had access to ConnectorCare coverage, the appellant's penalty should be waived. Appellant was evicted during 2018. Appellant received a Notice to Quit in August and vacated the premises the same month. See the testimony of the appellant which I find to be credible and Exhibit 1 attachment, the Notice to Quit. See 956 CMR 6.08(1)(a).

Appellant's penalty is waived in full. Either no affordable health insurance was available to the appellant (See Massachusetts General Laws, Chapter 111M, Section 2), or Appellant had a financial hardship pursuant to 956 CMR 6.08(1)(a), eviction, such that the cost of health insurance was unaffordable for the appellant.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1152

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 10, 2021

Decision Date: April 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 10, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-13-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-13-20) (with documents) (9 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 22 during 2018, from Hampden County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$30,124.00 (Exhibit 2).
4. Appellant had health insurance available through the employer, but did not believe it was affordable for Appellant. Appellant also tried to look into health insurance through the Health Connector but did not obtain it. (Testimony, Exhibit 3).
5. Appellant has health insurance through the union. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing and other necessities used significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing and other necessities, totaled approximately \$1,800.00 per month averaged out, or \$21,600.00 for the year (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$249.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$105.00.
9. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018). Appellant testified that the premiums for health insurance through the employer were more than the Appellant believed were affordable. (Appellant Testimony).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
13. Appellant did not fall more than thirty days behind in rent payments in 2018, nor did Appellant receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Private insurance was not affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$30,124.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$105.00 per month; according to Table 4, Appellant, who was 22 years old in 2018, lived in Hampden County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$249.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Expenses for food, shelter, clothing and other necessities did use a significant amount of the income. Appellant now has health insurance through the union. For these reasons, the waiver of the penalty is allowed.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1153

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 10, 2021

Decision Date: April 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 10, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-13-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2018 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-8-20) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2018, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2018, except for December 2018. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$19,783.00 (Exhibit 2).
4. Appellant was homeless the entire year of 2018, and suffered mental health and substance abuse issues. (Testimony, Exhibit 3).
5. Appellant was finally able to get an apartment and Appellant also got health insurance as of December 2018, and still has that health insurance. (Appellant Testimony, Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$249.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$48.00.
8. Private insurance was not affordable for the Appellant in 2018 (Schedule HC for 2018).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2018).
10. Appellant claimed that they should be granted a waiver based on the grounds that they were homeless throughout 2018. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Exhibit 3).
12. Appellant did not fall more than thirty days behind in rent payments in 2018, nor did Appellant receive a shut-off notice for basic utilities, but was homeless. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Private insurance was not affordable for the Appellant during 2018. According to Tables 3 and 4 of the HC Schedule for 2018, Appellant, with an adjusted gross income of \$19,783.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$48.00 per month; according to Table 4, Appellant, who was 26 years old in 2018, lived in Essex County and filed the 2018 Massachusetts taxes as single with a family size of 1, would have had to pay \$249.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were homeless for all of 2018. Appellant now has health insurance through MassHealth. For these reasons, the waiver of the penalty is allowed.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181167

Appeal Decision: The penalty is overturned in full
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: February 12, 2021
Decision Date: April 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 12, 2021. The procedures to be followed during the hearing were reviewed with Appellant. The appellant 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 testimony of the appellant and the representative and the following documents which were admitted in evidence:

- Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellant on September 28, 2020 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2018
- Exhibit 3: Notice of Hearing sent to Appellant dated January 13, 2021 for February 12, 2021 hearing
- Exhibit 4: Appellant's 2018 Form MA 1099-HC
- Exhibit 5: Appellant's 2018 amended Schedule HC

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single individual with no dependents claimed, was 38 years old in 2018 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Suffolk County in 2018 (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2018 of \$50,455 (Exhibits 2, Testimony of Appellant).
4. Appellant was self-employed all year. Appellant earned between \$5,000 and \$6,000 a month at the beginning of the year. Appellant's income dropped to \$2,000 to \$3,000 a month in the spring (Testimony of Appellant).
5. Appellant applied to the Connector for health insurance at the end of 2017. She tried to get coverage for January, but because of computer and software problems she was not able to enroll until in a plan until February 1,

2018. She had the coverage through the end of July. The monthly premium was \$397. When Appellant's income dropped she found she could not afford the cost and she dropped the coverage (Testimony of Appellant, Exhibit 4).

6. The appellant has been assessed a tax penalty for all of 2018. Appellant did not fill out her Schedule HC correctly. She has since amended it. The appellant has appealed the assessment (Exhibits 1, 2, 5, and Testimony of Appellant).

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

8. According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed and with an adjusted gross income of \$50,455 could afford to pay \$338 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Suffolk County, could have purchased insurance for \$290 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2018, Appellant earning more than \$36,180 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, and Exhibit 2).

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

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

12. Appellant did not receive any shut-off notices for basic utilities in 2018 (Testimony of Appellant).

13. Appellant had the following expenses for basic necessities in 2018: rent-\$1,900; heat and electricity-on average \$45; food-\$420; clothing-\$75; car payment-\$330; car insurance-\$130; gas-\$65; public transportation: \$43; student loans-\$400 through the spring (Testimony of Appellant).

14. Appellant obtained health insurance again in 2019 and had coverage all of 2020 and, as of the date of this hearing, in 2021 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant has been assessed a twelve-month tax penalty. Appellant has appealed this assessment. See Exhibits 1 and 2, and Massachusetts General Laws, Chapter 111M, Section 2. Appellant actually had coverage from February through July, 2018. The appellant made an error on her tax return causing her to be assessed a 12-month penalty. Since she also is entitled to a three-month grace period after losing her coverage at the end of July, the appellant's penalty for February through October is waived. See Exhibits 2, 4, and 5 and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed and with an adjusted gross income of \$50,455 could afford to pay \$338 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Suffolk County, could have purchased insurance for \$290 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant, considering her annual adjusted gross income. See Schedule HC for 2018, Tables 3 and 4, Exhibit 2.

Appellant applied for coverage through the Connector in December, 2017. Because of computer problems, she was unable to enroll until February, 2018. Appellant had coverage through the Connector on the individual market from February through July. She paid \$397 a month for the coverage. During the spring, Appellant, who was self-employed, had a drop in income. She had been making between \$5,000 and \$6,000 a month. At some point, her earnings dropped to between \$2,000 and \$3,000 a month, a decrease of about 50%. Appellant felt she could no longer afford the health insurance premium, so she gave up the coverage. See the testimony of the appellant which I find to be credible.

Appellant had no access to employer-sponsored insurance since she was self-employed. The appellant would not have been eligible for ConnectorCare coverage even after the drop in income since her projected income for the year would still have been over the income limit for an individual of \$36,180. See Table 2 of Schedule HC for 2018. There is no evidence in the record that Appellant was eligible for any other government-sponsored coverage. See Exhibit 2, and the testimony of the appellant which I find to be credible.

Since Appellant had access to insurance through the individual market, we need to determine if her penalty should be waived because of financial hardship. See 956 CMR 6.08(1) and (3).

Appellant had the following expenses for basic necessities in 2018: rent-\$1,900; heat and electricity-on average \$45; food-\$420; clothing-\$75; car payment-\$330; car insurance-\$130; gas-\$65; public transportation: \$43; student loans-\$400 through the spring. See the testimony of Appellant which I find to be credible. Discounting her student loan payments, Appellant's expenses came to \$4,000 a month. Once her income dropped by 50% to about \$2,500, Appellant experienced a serious financial hardship. Her expenses, not counting the premiums for health insurance she paid through July, were significantly higher than her income. Pursuant to 956 CMR 6.08(1)(e), I find that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

I also note that Appellant obtained insurance in 2019 and had coverage at least through the date of this hearing. See the testimony of the appellant which I find to be credible.

Appellant's penalty is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181168

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 12, 2021

Decision Date: April 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellants on December 16, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2018

Exhibit 3: Notice of Hearing sent to Appellant dated January 13, 2021 for February 12, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2018 Massachusetts tax return jointly with no dependents claimed, were 44 and 39 years old in 2018 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Middlesex County in 2018. Two years earlier, the appellants had moved in with their parents and grandmother in order to take care of them. In 2017, one of the appellants' mother died. In January 1, 2018, the other appellant's father passed away, and in November, 2018, the grandmother died (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$98,457. The appellants inherited \$50,000 of the gross income from one of the appellants' parent's estate. The estate was finally settled at the end of 2018, so the appellants did not have access to these funds all of the year (Exhibit 2, Testimony of Appellant).
4. One of the appellants was employed all year. This appellant earned about \$46,000. The other appellant was unemployed all year (Testimony of Appellant).
5. The appellant who was employed was offered health insurance by the employer. The monthly premium for coverage for the couple was \$400. The appellants did not enroll in the coverage (Testimony of Appellant)

6. The appellants were uninsured all of 2018 (Testimony of Appellant, Exhibit 2).
7. The appellants have been assessed a penalty for all of 2018; they have appealed the assessment (Exhibits 1 and 2, Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
9. According to Table 3 of Schedule HC for 2018, the appellants with no dependent claimed with an adjusted gross income of \$98,457 could afford to pay \$660 per month for health insurance. According to Table 4, Appellants, ages 39 and 44 and living in Middlesex County, could have purchased insurance for \$619 per month for a plan for a married couple. Such coverage would have been affordable for the appellants (Schedule HC for 2018, Tables 3 and 4; Exhibit 2; Testimony of Appellant).
10. According to Table 2 of Schedule HC for 2018, Appellants earning more than \$48,720, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2018, 956 CMR 12.00 et. seq.).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in mortgage payments in 2018 (Testimony of Appellant).
13. Appellants did incur significant and unexpected increases in essential expenses as a result of the deaths of family members (Testimony of Appellant).
14. Appellants had the following monthly expenses for basic necessities in 2018: mortgage-\$0.00; home owner's insurance-\$172, water-\$100; electricity and heat-\$0.00 (paid for by the grandmother until her death in November); telephone and internet-\$259; food and household and personal items-\$960; car insurance-\$132; clothing-\$167. The appellants were supporting the grandmother during the year; these figures include the cost of providing for her. In addition, the appellants paid \$6,000 for property taxes, \$7,000 for a new roof for the house, and \$1,200 for dental expenses. They also paid for the two family funerals and the cost of probating the father's estate and the grandmother's estate. These costs came to \$15,000 in 2018 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2018 should be waived, either in whole or in part. The appellants had no health insurance all year and each has been assessed a tax penalty twelve months. Appellants have appealed the penalty. See Exhibits 1 and 2.

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

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

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

According to Table 3 of Schedule HC for 2018, the appellants with no dependent claimed with an adjusted gross income of \$98,457 could afford to pay \$660 per month for health insurance. According to Table 4, Appellants, ages 39 and 44 and living in Middlesex County, could have purchased insurance for \$619 per month for a plan for a married couple. Such coverage would have been affordable for the appellants. However, more than half of the appellants' income was not available to them until the end of the year when the estate of one of the appellant's parents was settled. The appellants then inherited \$50,000. When the appellants would have had to purchase insurance, during the open enrollment period, their projected annual income would have been about \$46,000. With a projected income of \$46,000, the appellants would have been deemed able to afford \$285 a month for premiums. The cost still would have been \$619 a month. Taking into account what the appellants' income would have been during the open enrollment period (late 2017 through January, 2018), insurance on the individual market would have been unaffordable for the appellants. See Schedule HC for 2018, Tables 3 and 4; Exhibit 2; and the testimony of Appellant which I find credible. See also 45 CFR 155.410, regulations regarding open enrollment periods.

The appellant who was employed during 2018 was offered health insurance for him and his spouse. The cost would have been \$400 a month. The cost would have been affordable to the appellants if we consider their income as of the end of the year. If we consider their income as of the beginning of the year, the cost would have been significantly more than the amount deemed affordable for the appellants. See above and the testimony of the appellant which I find to be credible.

Appellants could not have obtained coverage through the Connector's ConnectorCare program. If we consider their adjusted gross income for 2018, they would have earned too much to be eligible. The income limit for two was \$48,720, significantly less than \$98,457, the appellants' adjusted gross income. If we consider the appellants' income at the beginning of the year, however, they would have been eligible according to their earnings. But we also need to consider the affordability of the coverage offered to them through employment when determining their eligibility for the ConnectorCare coverage.

ConnectorCare coverage, which is subsidized in part by an advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable under standards set by the Patient Protection and Affordable Act. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2018 is less than 9.56% of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f). 9.56% of the appellant's modified adjusted gross income of \$46,000 equals \$366 per month ($\$46,000 \times 9.56\% = \$4,397$. That amount divided by 12 = \$366). Appellants had access to insurance through employment which would have cost \$400 a month. This coverage was deemed to be unaffordable pursuant to the Affordable Care Act. Since the insurance offered through employment was unaffordable, the appellants were eligible to obtain ConnectorCare coverage. See also Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq., and the testimony of the appellant which I find to be credible.

If we assume that affordable health insurance was available to the appellants, the appellants' penalty would be waived in its entirety. While their income by the end of the year was \$98,457, this is not the income the appellants

had available to them to cover expenses during the year. \$50,000 of their Federal adjusted gross income became available to them at the end of the year when Appellant's father's estate was settled. During the year, the appellant who worked was earning about \$3,800 a month before taxes. They had expenses for basic necessities that amounted to about \$1,800. But, this amount does not take into account other expenses the appellants had—property taxes of \$6,000, legal and funeral expenses of \$15,000, dental expenses of \$1,200, and necessary home repairs (roof replacement) of \$7,000. Most of these expenses were the result of the appellants' need to care for ill and dying relatives. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellants had a financial hardship such that the cost of purchasing health insurance would have been unaffordable for them. See 956 CMR 6.08 (3). 6.08(3) permits the Connector to take into consideration financial issues raised by the appellant during the appeal. See also 956 CMR 6.08(1)(d)(2) regarding expenses incurred as a result of the death of a family member.

The penalties are waived because of financial hardship.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1072

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 15, 2021

Decision Date: April 6, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 31-years-old, is separated and has one child.² She had minimum creditable coverage (MCC) health insurance from June through December, 2019. (Testimony, Ex. 2)
2. The appellant had subsidized health insurance through the Health Connector in January and February, 2019, for which she paid \$146.00/month. She lost her job in February and could not afford to continue to pay for health insurance. She only recently received a 2019 Form 1095-A from the Connector because she lived in a homeless shelter for a while and she was not receiving her mail. (Testimony)

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

² The appellant was married in 2019.

3. The appellant got another job in or around May, 2019 and remained employed until March, 2020, when she was separated from employment. She had employer health insurance from June through December, 2019. (Testimony, Ex. 2)
4. At the time the appellant prepared her 2019 tax returns, she had not received the Form 1095-A from the Connector, and indicated on her Schedule HC that she did not have insurance for the months of January and February. (Testimony, Ex. 2)
5. The appellant reported an adjusted gross income of \$25,704.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. The appellant has been enrolled in health insurance through MassHealth since January, 2020. (Testimony)
7. Following the hearing, the record was held open until January 29, 2021 for submission of a 2019 Form 1095-A. The appellant did not submit the documentation by that date nor did she request an extension of the deadline.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities; and 2) she incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for her.

The appellant testified credibly that she was unemployed from March until around May when she started a new job, and had employer health insurance from June through December. She testified that she had health insurance in January and February through the Health Connector and had only recently received a 2019 Form 1095-A because she had been living in a homeless shelter and was not receiving her mail. She testified that since she did not have the Form 1095-A in her possession when she prepared her 2019 tax returns, she indicated on her Schedule HC that she was uninsured for January and February. Finally, she testified that she has been enrolled in health insurance through MassHealth since January, 2020.

The appellant did not submit any documentation in response to the Open Record Request for proof of health insurance for January and February, and in the absence of that information, it is concluded that she did not have insurance for those months. She did have MCC health insurance from June through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of

three months are not subject to penalty. Based on the information in the record, since the appellant was uninsured from January through May, she was assessed and is appealing a penalty of two months (i.e., the months of uninsurance less the gap period of three months).

Had the appellant submitted the requested documentation, she would not have been penalized since she would have been entitled to the aforementioned gap period of three months between March and June. She offered credible testimony that she was insured for the two months in question, but that claim could not be corroborated with supporting documentation. Although a negative inference may be drawn from the failure to respond to the request, based on the totality of the evidence, it is concluded that the penalty should be waived due to compelling testimony regarding a combination of difficult housing circumstances and loss of employment in 2020.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1144

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: February 12, 2021
Decision Date: April 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 12, 2021. Appellant also represented Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated January 19, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated December 2, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 49 years old in 2019. Appellants filed a Massachusetts 2019 tax return as married filing jointly with no dependents claimed (Exhibit 2).
2. Appellants had an Adjusted Gross Income for 2019 of \$54,528 (Exhibit 2).
3. Appellants lived and worked in Florida in 2019 (Testimony of Appellant).
4. Appellant was notified that Appellant's mother, living in Massachusetts was very ill and not expected to live (Testimony of Appellant).
5. Appellant came to Massachusetts from Florida in August 2019 to care for Appellant's mother and Appellant was not sure how long Appellant would be in the state (Exhibit 4 and Testimony of Appellant).
6. Appellant cared for Appellant's mother in Massachusetts during August to December (Testimony of Appellant).
7. Appellant spouse continued to live and work in Florida for all of 2019 (Testimony of Appellant).
8. Appellants had difficulty paying for their basic expenses in Florida in 2019. Their expenses included mortgages, utilities, car payment and car expenses and college expenses for their daughter.

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with no dependents with an adjusted gross income of \$54,528 could afford to pay \$339 per month for private insurance. According to Table 4, Appellants, who were 49 could have purchased private insurance for a cost of \$699.
11. Private insurance was not considered affordable for Appellants in 2019 (Schedule HC for 2019).
12. Appellants, earning more than \$49,380 would not have been eligible for government subsidized health insurance (Schedule HC for 2019).
13. Appellants did not have health insurance for the five months of residence in Massachusetts in 2019 (Testimony of Appellant and Exhibit 2).
14. Appellants have been assessed a penalty for two months for 2019 (Exhibit 2).
15. Appellants filed an Appeal on December 2, 2020 stating that Appellants had incurred a significant, unexpected increase in essential expenses resulting from the sudden responsibility for providing full care for an aging parent in 2019 (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2016, Appellants would not have been income eligible for subsidized health insurance. Also, private health insurance was not considered affordable for Appellants.

I find that affordable health insurance was not available to Appellants in 2019 and that the penalty assessed against Appellants for 2019 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 2/2

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1145

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: February 12, 2021
Decision Date: April 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on February 12, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated January 19, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated December 7, 2020
- Exhibit 4: Documents in support of appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 64 years old in 2019 and resided in Norfolk County (Exhibit 2).
2. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$26,957 (Exhibit 2).
4. Appellant was unemployed for part of 2019 (Testimony of Appellant).
5. In 2019, Appellant struggled to pay basic expenses, which included rent and utilities of \$3,400 per month and a car payment of \$365 per month (Testimony of Appellant).
6. Appellant fell behind in the rental payments and received several eviction notices and went to Court regarding eviction (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$26,957 could afford to pay \$94 per month for private insurance. According to Table 4,

Appellant, who was 64 and lived in Norfolk county could have purchased private insurance for a cost of \$418 per month.

9. Private insurance was not considered affordable for Appellant in 2019 (Schedule HC for 2019).
10. Appellant, earning less than \$36,240 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
11. Appellant did not have health insurance for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
12. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
13. Appellant filed a hardship appeal on December 7, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was considered to be income eligible for government subsidized health insurance in 2019, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities and Appellant received eviction notices. I find that Appellant suffered a hardship and health insurance was not affordable for the months assessed in 2019. See Schedule HC for 2019, 956 CMR 6.08 (1)(a), Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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