

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: Friday, March 29, 2024

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 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages

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Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	1095 C Form (2022)	2 Pages
Exhibit 5	W2 form for 2022	2 Pages
Exhibit 6	Open Records Updated Exhibit: National Grid Bill, dated 8/22/2022 through 9/21/2022 - Termination of Services Notice In Effect	3 Pages
Exhibit 7	Open Records Updated Exhibit: Correspondence from the Appellant, dated 3/20/2024	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Married Filing Jointly. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Joint Income for 2022 was \$107,609.00 (Exhibit 1, Appellant's Testimony). Appellant's Joint Income was 588% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant's husband was employed as a Building Manager for a Private University in a full-time capacity with no job disruptions for the entire year. (Appellant's Testimony).
5. In 2022, the Appellant obtained employment in a position as an Executive Director for a Non Profit from the months of March through December. This was a part-time role.
6. The Appellant does currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

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8. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$107,609.00 was deemed able to pay \$717.39 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 30 and living in Worcester County, could have purchased private insurance for \$554.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
10. In 2022, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$2,200.00	<u>Car Insurance</u>	\$200.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$382.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$180.00	<u>Food</u>	\$600.00	<u>Car</u>	\$900.00
<u>Heat</u>	\$167.00	<u>Cell Phone</u>	\$200.00	<u>Clothing</u>	\$100.00
<u>Electricity</u>	\$300.00	<u>Household & Toiletries</u>	\$50.00	<u>Child Care Costs</u>	\$0.00
				<u>Total:</u>	\$5,279.00

11. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$8,967.42. Her necessary expenses were determined to be \$5,279.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,975.80 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government

¹The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

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subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

13. 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 2022 (Testimony of Appellant).
14. Appellant was not homeless or did not fall more than thirty days behind in rent payments in 2022.
15. During the administrative appeal hearing, the appellant provided compelling evidence and testimony regarding their difficult financial circumstances in 2022. The appellant stated that they received shut-off notices for basic utilities and experienced an actual utility shut-off event during the year in question. (Testimony of Appellant).
16. To support these claims, the appellant submitted additional documentation after an open record request was completed. Exhibit 6 clearly corroborates the appellant's statements about the utility shut-off incident in 2022.
17. I find the appellant's testimony to be credible, and I give significant weight to the supporting documentation they provided during the open record period.
18. Furthermore, the appellant explained that the monthly cost of Health Insurance through the Health Connector was unaffordable for them, especially considering that one of the appellants had lost their job during this time and was only able to secure a part-time position. (Appellant's Testimony).
19. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months. Her significant other was assessed 0 months of a penalty for not having appropriate Health Insurance coverage.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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.

The Appellant was not aware of the individual mandate, according to her testimony.

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Ignorance of the law is no excuse. "[W]hen statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute." Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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 for 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 had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Open Records Request

In the administrative appeal hearing held on March 13, 2024, the appellant shared their concerns about the affordability of Health Insurance through the Health Connector, stating that the costs were too high for their budget and indicating that they had dealt with utility shut off notices in 2022.

After listening carefully to their testimony, I have decided to give the appellant a 60-day window to gather and submit any extra documents that could support their case. These documents are important for us to fully understand their situation. It's crucial for the appellant to provide these documents within the allotted 60 days to ensure we have all the information needed to make a fair decision.

The appellant promptly responded by providing the requested documentation swiftly and efficiently, along with additional correspondence that further explained the contents and relevance of the documents. This proactive approach greatly assists in clarifying the appellant's financial situation and strengthens their appeal by offering a more comprehensive view of their circumstances.

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Appellant's Employment & Employer Based Insurance

The Appellant was employed for the part of the year in a part time capacity (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). The Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit. In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2022, the Appellant is ineligible for insurance through the ConnectorCare program.

The Appellant also testified to not applying through the Health Connector in tax year 2022. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. As their income level was 587.71% of the Federal Poverty Level, the appellant would not have been eligible for subsidies or Advanced Premium Tax Credits (APTCs), due to exceeding the income threshold.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant's income does not qualify them

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for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$107,609.00, 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 \$717.39 per month; according to Table 4, Appellant, who was 30 years old in 2022, lived in Worcester County and filed her 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$554.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$8,967.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$717.39 per month), the Appellant could have afforded private health insurance with a premium of \$554.00 per month. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Financial Hardship Analysis

In this case, although affordable insurance was available to the appellant through the private market in 2022, it is necessary to determine whether they experienced a financial hardship as defined in 956 CMR 6.08 (1).

The evidence presented by the appellant, based solely on their income and expenses, does not sufficiently establish a financial hardship as defined by law. During the hearing, the appellant testified that their basic monthly expenses in 2022 were approximately \$5,279.00. Given the monthly difference of \$1,975.80 between their income and expenses, and considering the lowest monthly premium for the appellant's qualifying ConnectorCare plan (which could not be determined from the provided information), it appears that the appellant should have been able to afford a healthcare plan.

However, the appellant provided compelling testimony about receiving a utility shut-off notice and substantiated those claims with additional documentary evidence during the open record period. In light of this evidence, I find that the appellant did

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experience a hardship in 2022.

According to 956 CMR 6.08(3), the Connector shall consider any other grounds that an appellant may claim demonstrating their inability to afford health insurance that met minimum creditable coverage standards. Based on this regulation and the evidence presented, the tax penalty for this appellant shall be waived.

Conclusion

In conclusion, while the appellant's income and expenses alone do not establish a financial hardship as defined by law, their compelling testimony and substantiating evidence regarding the utility shut-off notice demonstrate that they experienced a genuine hardship in 2022. Therefore, in accordance with 956 CMR 6.08(3) and the evidence presented, the tax penalty for this appellant is waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1521

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 25, 2024

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 for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022 (dated 11/1/23).
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page);
5. Landlord’s Email Re Notice to Quit (dated 8/24/23 [sic?]).

FINDINGS OF FACT

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 2 month penalty for 2022. The basis for the penalty was that the Appellant was insured for the months of January – July (7 months) and was not insured for the months of August – December (5 months) in 2022. Exhibits 1 and 2. Based on Exhibit 1, Exhibit 2, and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 7 months insured = 5 months uninsured minus 3-month administrative grace period = 2 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$38,469. Exhibit 1.
3. The Appellant was 30 years old at the beginning of 2022 and resided in [name of city or town omitted] in Suffolk County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$38,469) was less than 300% of the federal poverty level (\$38,640 for a one-person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would satisfy the financial eligibility requirements for government-subsidized health insurance.
5. Based on DOR Table 3 the Appellant could afford to pay 5.00 % of her income -- or \$160 per month -- for health insurance coverage in 2022. (The calculation is 5.00% multiplied by \$38,469 AGI = \$1,923.45 per year divided by 12 months = \$160.28 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$277 per month in 2022.
7. For the months of January through July in 2022 the Appellant was insured under her employer's health plan. In July the employer terminated health insurance coverage for all the employees who were insured through her small employer. Exhibit 4 and Testimony.
8. The Appellant was not able to afford health insurance for the remaining months in 2022 (August – December) after her employer terminated health insurance coverage to its employees. Exhibit 4 and Testimony.

9. At the end of August 2022 the Appellant had to quickly find a new apartment in an unfavorable rental market. The rent for her studio apartment was \$2,832 per month plus utilities. Exhibits 4 and 5 and Testimony.
10. In addition to rent, the Appellant's outstanding student loan balance was \$20,000 or more for which she paid \$500 per month, her credit card balance was approximately \$6,000, her car loan payment was \$500, and her car insurance was \$130 pe month. Testimony.
11. The Appellant was struggling financially. Her family and friends provided assistance. Exhibit 4 and Testimony.
12. In 2023 the Appellant relocated to [name of city or town omitted] in New York. See Exhibits 1, 2 and 3.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 2 month tax penalty because the Appellant did not have health insurance coverage for the months of August through December in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal establishes that the Appellant could not afford health insurance after the month of July, when her small employer terminated the health insurance plan that it had previously provided to its employees, including the Appellant. Before July, the Appellant had enrolled in her employer's health plan.

The Appellant’s \$38,460 federal adjusted gross income (AGI) was less than 300% of the federal poverty level in 2022 (\$38,640). Based on the financial standards set forth in DOR Tables 3 and 4, the Appellant could afford to pay \$160 per month for health insurance but insurance would cost \$277 per month at her age and location, which was substantially more than the Appellant could afford to pay. See Findings of Fact, Nos. 4, 5, and 6, above.

The Appellant also had substantial living expenses. In addition to rent for her studio apartment (\$2,832 per month), the Appellant had an outstanding student loan balance (\$20,000), credit card balance (\$6,000). The Appellant also paid \$500 per month for her car payment and \$130 per month for car insurance. See Findings of Fact, Nos. 9 and 10, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire two month penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([“The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

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 2022 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 2022.

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2637

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 18, 2024

Decision Date: April 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants are a married couple who will be referred to in this decision as Husband and Wife. Both Appellants appeared at the hearing, which was held by telephone, on April 18, 2024. The hearing record consists of the testimony of Appellants, 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: Request to vacate dismissal (email) (1 page)
- Exhibit 4: Request to vacate dismissal (letter) (1 page)

FINDINGS OF FACT

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

1. Both Appellants were 23 at the end of 2021. Exhibit 2.
2. Appellant had a mailing address in Worcester County in 2021. Exhibit 2. However, during that year, Husband was in the active military and was stationed in North Carolina. Wife lived with him there.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2021 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.

3. Appellants filed their taxes as married filing jointly with no dependents. Exhibit 2. Appellants' household income in 2021, as reported on their 2021 state income tax returns and confirmed at the hearing, equaled \$111,750.
4. Appellants reported in the Schedule HC that they filed with their 2021 state income taxes that neither one of them had health insurance at any point in 2021. Exhibit 2. This, however, was erroneous.
5. As a member of the military on active duty, Husband was covered through Tricare, the federal program which provides health coverage to members of the armed forces.
6. Husband and Wife married in October of 2021. After that point, Wife, as the spouse of a member of the military, was covered under Tricare as well.
7. Before October, Wife had been covered under her parents' health insurance policy because she was under 26 years of age.
8. Husband was still enrolled in the military at the time of the hearing and both Appellants remained covered by Tricare.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download> which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

Because Appellants reported on the Schedule HC that they filed with their state income taxes that they did not have health insurance in 2021, they were each assessed a penalty under M.G.L. c. 111M. However, they were in fact both covered by health insurance throughout the year.

As an active member of the military, Husband was covered by Tricare. See 10 U.S.C. § 1074. Further, Wife, as the spouse of an active member of the military, was also covered by Tricare. See id. § 1079. The Massachusetts individual mandate statute expressly includes Tricare programs as "creditable coverage." See M.G.L. c. 111, § 1 (clause "v" of definition of "creditable coverage").

Further, before their marriage, Wife was covered under her parents' health insurance policy. Under the Affordable Care Act, insurers are required to cover dependent children until they turn 26. 42 U.S.C. § 300gg-14. In 2021, Wife was under 26 and so would have been eligible for this coverage.

Because Appellants were both covered by creditable insurance during 2021, they should not have been assessed the individual mandate penalty. Accordingly, I am allowing this appeal and waiving the penalty.

PENALTY ASSESSED

Husband:

Number of Months Appealed: 12

Number of Months Assessed: 0

Wife:

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2658

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 18, 2024

Decision Date: April 23, 2024

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 18, 2024. 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: Request to Vacate Dismissal (8/10/23) (1 page)
- Exhibit 4: Request to vacate dismissal (w/ attachments) (5 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 55 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2. Appellant's household income in 2021, as reported on his 2021 state income tax returns and confirmed at the hearing, equaled \$75,082.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 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 he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2021. Exhibit 2.
5. During 2021, Appellant was self-employed. Thus, he was not offered health insurance through his work.
6. Before 2021, Appellant had been enrolled in health insurance that he obtained through the Health Connector. However, he decided that the insurance had become too expensive, and he sought alternatives.
7. Appellant talked to a broker who sold him coverage through a plan called Alliance for Shared Health. Appellant was paying about \$250 a month for that plan.
8. The plan that Appellant signed up for was not insurance and did not meet Massachusetts standards for creditable coverage. Appellant did not realize that fact until he went to pay his income taxes for 2021.
9. After that, Appellant dropped the Alliance plan and obtained insurance through the Health Connector again.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download> which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to satisfy the requirements of Chapter 111M, the coverage must be “creditable” as that term is defined in the statute. To be “creditable,” coverage must meet the standards for “minimum creditable coverage” established by the Health Connector’s board. M.G.L. c. 111M, § 1 (clause “a” of the definition of “creditable coverage”). Those standards are stated in regulations that require the insurance to cover a broad range of medical services and that set limits on the out-of-pocket costs for the insured individual. See 956 C.M.R. 5.03. For instance, to meet the standards, the plan cannot establish a limitation on the amount of coverage for medical services. Id. § 5.03(1). The plan that Appellant purchased did not meet those standards. For instance, that plan’s materials stated that the receipt of “assistance” for medical expenses will be “voluntary.” See <https://ahcsm.org/about-us/ministry-standards/>. The plan’s materials also state that the plan is not and should not be considered to be insurance. Id.

Because Appellant did not have health insurance meeting minimum creditable coverage standards in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. To determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-

based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9.

During 2021, Appellant was self-employed. Thus, he was not offered insurance through employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have income below 300 percent of the federal poverty level and meet the other eligibility requirements, such as citizenship or legal permanent resident status, and lack of access to employer-subsidized insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,280. (I obtain this figure from Table 2 of the 2021 instructions to the Schedule HC.) Appellant's income of \$75,082 was above that amount and thus he was not eligible.

However, Appellant could have afforded to purchase insurance on the non-group market under affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$75,082 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$6,006 annually or \$500 a month. During 2021, a person like Appellant who lived in Middlesex County and was 55 years of age could have obtained insurance on the non-group market for a monthly premium of \$401. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but didn't, I must consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant purchased something that he believed was health insurance. Under the governing regulations, I can take into account the cost of non-MCC compliant insurance purchased by Appellant. 956 C.M.R. § 6.08(2)(c). The cost of the plan purchased by Appellant, although less than he would have had to pay for legitimate health insurance, was not insignificant. Thus, I conclude that Appellant was not trying to avoid the cost of purchasing insurance. Rather, he mistakenly purchased something that he thought was insurance. Further, when Appellant realized what had occurred, he obtained insurance through the Health Connector in 2022. In light of all those factors, I will exercise my discretion and waive the penalty.

During the hearing, Appellant stated that he had experienced a slowdown in his business this year. Because of this loss of income, he had stopped paying for health insurance. In 2024, the income limit for Connector Care, which as stated above is the program of government subsidized health insurance, has been increased to \$72,900 for an individual with no dependents. If Appellant believes that his 2024 income will be below that amount, he should apply for Connector Care. He can do that by visiting the Health Connector's website at www.mahealthconnector.org or by calling the Customer Service Center at 877-623-6765. When applying, Appellant should state that he wants financial assistance.

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2674

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 18, 2024

Decision Date: April 23, 2024

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 18, 2024. 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: Request to Vacate Dismissal (w/ attachments) (6 pages)
- Exhibit 4: Statement of Grounds (w/ attachments) (4 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 25 at the end of 2021. Exhibit 2.
2. Appellant lived in Suffolk County in 2021. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2. Appellant's household income in 2021, as reported on her 2021 state income tax returns and confirmed at the hearing, equaled \$62,601.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2021 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 2021 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2021. Exhibit 2.
5. Appellant was residing in the United States under the auspices of the Deferred Action for Childhood Arrivals (DACA) program. Exhibit 3 (page 4). As such, she had authorization to work in the United States. Exhibit 3 (page 5).
6. During 2021, Appellant was employed. However, she was unable to obtain health insurance from her employer.
7. She stated that she attempted to obtain health insurance through the Health Connector, but she was told that she didn't qualify.
8. In 2022, she obtained a new job and was able to get health insurance through that job.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download> which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

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ANALYSIS AND CONCLUSIONS OF LAW

M.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.

Because Appellant did not have health insurance meeting minimum creditable coverage standards in 2021, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9.

During 2021, Appellant was unable to obtain health insurance through her employer. Therefore, she did not have access to employment-based insurance.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have income below 300 percent of the federal poverty level and meet the other eligibility requirements, such as citizenship or legal permanent resident status, and lack of access to employer-subsidized insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,280. (I obtain this figure from Table 2 of the 2021 instructions to the Schedule HC.) Appellant's income of \$62,601 was above that amount and thus she was not eligible. Further, as discussed more fully below, Appellant did not meet the legal requirements for permanent resident status needed to qualify for Connector Care.

Finally, Appellant would not have been able to obtain health insurance on the non-group market. Purchase of such plans can be made through the Health Connector, which is a health insurance exchange established under the Affordable Care Act (“ACA”). Under the ACA, however, only “qualified individuals” are eligible to purchase insurance on an exchange. 42 U.S.C. § 13031(a)(2). In order to be a “qualified individual,” an individual must be “lawfully present” in the United States. 42 U.S.C. § 18032(f). Under federal law, individuals who qualify under the DACA program are *not* considered to be lawfully present for the purpose of obtaining access to health care programs such as health insurance through insurance exchanges. See 45 C.F.R. § 152.2(clause 4(vii) of the definition of “lawfully present.”) Thus, under federal law, Appellant was not able to purchase non-group insurance through the Health Connector. Further, she would not have meet the legal permanent residency requirements to obtain Connector Care, even if she had been income-eligible.

As a result, I conclude that Appellant did not have access to affordable insurance in 2021. Accordingly, she should not have been assessed a penalty for violating the “individual mandate” because that mandate only applies if the individual has access to affordable insurance but does not purchase it. Because Appellant did not have access to affordable insurance, I am not required to determine whether she has stated grounds to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Rather, I am allowing the appeal and waiving the penalty in full.

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2712

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 18, 2024

Decision Date: April 23, 2024

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 18, 2024. 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 (w/ attachments) (10 pages)
- Exhibit 4: Request to vacate dismissal (2 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 32 at the end of 2021. Exhibit 2.
2. Appellant lived in Middlesex County in 2021. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2. Appellant's household income in 2021, as reported on his 2021 state income tax returns and confirmed at the hearing, equaled \$44,442.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2021 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 he filed with his 2021 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2021. Exhibit 2.
5. During 2021, Appellant worked for an employer who offered health insurance. However, he felt that the insurance was too expensive and so did not take it.
6. During 2021, Appellant experienced an injury while working. As a result, he did not work for three months and instead collected worker's compensation. Because the injury was work-related, his medical costs were covered by worker's compensation.
7. At the end of the three months when he was out of work, Appellant obtained a new job. This occurred in 2022. His new employer offered insurance and he took it. He was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download> which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

Because Appellant did not have health insurance in 2021, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2021 Schedule HC instructions at pages HC 7-9.

During 2021, Appellant was offered insurance by his employer. He didn't recall the cost of the insurance with certainty, but he thought that it was a couple of hundred dollars a week. This would not have been affordable under affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$44,442 was deemed able to afford 7.45 percent of income on insurance. (I obtain that figure from Table 3 of the 2021 instructions for the Schedule HC.) In this case, that amounts to \$3,310 annually or \$275. Thus, the insurance offered through work would not have been affordable.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have income below 300 percent of the federal poverty level and meet the other eligibility requirements, such as citizenship or legal permanent resident status, and lack of access to employer-subsidized

insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2021, 300 percent of the federal poverty level for a person like Appellant who was in a one-person household was \$38,280. (I obtain this figure from Table 2 of the 2021 instructions to the Schedule HC.) Appellant's income of \$44,442 was above that amount and thus he was not eligible.

However, Appellant could have afforded to purchase insurance on the non-group market under the Health Connector's affordability standards. As stated above, he was able to afford \$275 a month for insurance, given his income and household size. During 2021, a person like Appellant who lived in Middlesex County and was 32 years of age could have obtained insurance on the non-group market for a monthly premium of \$268. (I obtain the premium figure from Table 4 to the instructions for the 2021 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2021, but didn't, I must consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant experienced a significant physical injury during the year, which impaired his ability to earn income. Although he did receive worker's compensation during the period when he was unable to work, the amount of that compensation is less than the salary he was earning before his injury. Further, Appellant would not have known how long he would be recuperating and when he would be able to return to work. Additionally, under the affordability standards discussed above, health insurance would only have been barely affordable to Appellant. Finally, I take into consideration the facts that Appellant obtained health insurance in 2022 when he started a new job that offered more affordable insurance and that he was insured as of the date of the hearing.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: Friday, March 29, 2024

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 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeals Case Information from Schedule HC 1 page
- Exhibit 2: Appellant's Statement of Grounds for Appeal 2 Pages
- Exhibit 3 Health and Human Service Mass.gov Print Out, 2 Pages
 dated 9/7/2023 (Eligibility Statement)

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 24 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$72,595.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 534% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Waiter at Restaurant in a full-time capacity. (Appellant's Testimony).
5. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$72,595.00 was deemed able to pay \$483.97 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age and living in Suffolk County, could have purchased private insurance for \$277.00 per month.
8. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
9. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year.
10. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example

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because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
13. In the appeal hearing, the appellant stated the following: Upon arriving in Massachusetts in December of 2021, the appellant sought guidance from a friend regarding healthcare options. Based on this advice, the appellant contacted Fenway Hospital to inquire about available programs. During the call, a representative from the hospital assisted the appellant in enrolling in the Health Safety Net.
14. To support this account, the appellant provided an exhibit corroborating their interaction with the hospital (See Ex. 3). According to the appellant, the representative who facilitated the enrollment clearly communicated that the appellant had completed all necessary steps and that no further action was required.
15. The appellant emphasized their reliance on the information provided by the hospital staff. They trusted that they had successfully secured health coverage through the Health Safety Net program, believing they had followed the appropriate procedures and taken the necessary measures to ensure enrollment.
16. The appellant respectfully requested that these circumstances be taken into consideration during the review of their appeal. They asserted that they acted in good faith by seeking assistance from a reputable healthcare institution and following the guidance provided by the staff.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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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. The Appellant was aware of the individual mandate, according to his testimony.

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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual’s income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to

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affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find such coverage was unavailable.

The Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit. In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, The Appellant's income does not qualify them for Advance Premium Tax Credits, as it does not lie within the required 300% to 400% FPL range.

Because the Appellant's Income was 534% of the Federal Poverty Level, he is ruled to be INELIGIBLE, based on income, for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$72,595.00, 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 \$483.97 per month; according to Table 4, Appellant, who was years old in 2022, lived in Suffolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$6,049.58 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$483.97 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2022 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Health Safety Net

In his testimony, the appellant shared his understanding and actions concerning health insurance enrollment through the Fenway Hospital group. He explained that during his initial discussions with a representative from Fenway Hospital, he signed up for what he believed was health insurance. The appellant further elaborated that he was under the impression that enrolling in the Health Safety Net program amounted to having health insurance coverage.

After reviewing the evidence provided, It's important to address the Appellant's concerns regarding the Health Safety Net (HSN) program and its applicability to his situation. The HSN is a program designed to assist Massachusetts residents who are uninsured or underinsured and have family incomes below a certain percentage of the Federal Poverty Level (FPL). The program pays for certain medically necessary services at Massachusetts community health centers (CHCs) and acute care hospitals.

However, based on the information the Appellant has provided, it appears that his income is well above 500% of the FPL. As a result, the Appellant does not meet the eligibility requirements for the HSN program. The HSN is intended to help individuals and families with limited financial resources to access essential health care services. It serves as a safety net for those who may not have the means to afford comprehensive health insurance or cover the full cost of their medical expenses.

Given the Appellant's income level, he is likely ineligible for the HSN program, as it is designed to assist those with lower incomes. This means that the HSN would not be able to provide coverage for his medical expenses or serve as a secondary payer to his existing health insurance.

Appellant's Claims of Inequity

The appellant argues that applying the affordability tables to their case in the referenced tax year would be inequitable. The appellant testified that he believed he was enrolled in Health Insurance through the Health Safety Net based on information provided by a representative from the Fenway Hospital Group.

However, the appellant's misunderstanding of the individual mandate requirements does not provide relief from the penalty. As stated in Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013), "when statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute."

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In this case, there is insufficient evidence to corroborate the appellant's account of the initial phone call with the Fenway Hospital Group representative in early 2022, during which the appellant allegedly signed up for a version of the Health Safety Net. The available record does not provide enough information to determine the exact content of that conversation.

Nevertheless, it is evident that the appellant was aware of the requirement to maintain health insurance after discussing the matter with a friend. Unfortunately, the appellant failed to exercise reasonable due diligence, which would have led to the discovery that the health insurance must meet minimum creditable coverage standards in terms of the cost and scope of services offered.

While I understand and appreciate the appellant's perspective, I disagree with their reasoning for not applying the affordability tables to their case.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The regulations of the Connector also permit a waiver of the tax penalty in instances of proven financial hardship, as outlined in 956 CMR 6.08. Yet, the appellant did not make a claim of financial hardship during the hearing, nor did he present any supporting evidence when expressly asked. Consequently, his failure to meet the requirements of the individual mandate, given his acknowledged awareness and lack of any proven financial hardship, further supports the appropriateness of applying the standard affordability tables.

Conclusion

In conclusion, despite the appellant's lack of understanding regarding the individual mandate requirements, the penalty for not maintaining minimum creditable coverage must be upheld.

The law is clear in its intent to ensure that all individuals in Massachusetts have adequate health insurance coverage. Ignorance of the law, even if unintentional, does not excuse one from the consequences of violating it.

The appellant had the responsibility to conduct due diligence and ensure compliance with the individual mandate, regardless of any confusion or misinformation that may have occurred during the initial enrollment process. Therefore, based on the available evidence and the clear statutory requirements, the penalty for the appellant's failure to

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maintain proper health insurance coverage is sustained.

PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: Friday, March 29, 2024

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 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3:	Correspondence from the Appellant	2 Pages

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 years old in the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$48,712.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 358% of the Federal Poverty level and based on her income, if all other conditions were met, she MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Therapist Associate at a mental health telehealth platform, in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by her employer.
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$48,712.00 was deemed able to pay \$308.51 per month for health insurance, or 7.60% of her income. According to Table 4, Appellant, age 34 and living in Bristol County, could have purchased private insurance for \$290.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. The appellant challenges the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:

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- a. Other. During 2022 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
13. 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 2022 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The Appellant testified that she lost her employer-sponsored insurance at the beginning of the year. When she attempted to shop for health insurance through the Health Connector, she encountered difficulties due to the Health Connector's database incorrectly indicating that she had employer-sponsored insurance available to her.
16. Despite submitting documentation confirming that she did not have employer-sponsored insurance, the issue persisted. According to the Appellant, she made numerous attempts to contact the Health Connector to resolve the matter, but the Health Connector's systems continued to deny her eligibility based on the incorrect information about her having access to employer-sponsored insurance. Feeling frustrated and unsure of what else to do, the Appellant eventually gave up on trying to resolve the issue. (Appellant's Testimony).
17. When open enrollment began in November 2022, the Appellant applied for health insurance through the Health Connector once again. However, she was denied eligibility on the grounds that she had employer-sponsored insurance available to her. In a final attempt to rectify the situation, the Appellant contacted the Health Connector by phone to seek assistance with completing her application.
18. During this phone call, the Appellant was able to connect with a customer service representative who reviewed her past application and noticed that she had previously submitted correspondence from her employer confirming that they were not offering her health insurance. The customer service representative, while unable to resolve the underlying issue, cleared the Appellant's account, allowing her to shop for health insurance through the

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Health Connector. As a result, the Appellant successfully obtained health insurance coverage that began in December 2022. (Appellant's Testimony).

19. I credit the Appellant's testimony as it relates to her dealing with the Health Connector and the confusion about whether or not she had Employer-Sponsored Insurance available to her and whether that blocked her from applying for Health Insurance through the Health Connector itself.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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.

The Appellant was not aware of the individual mandate, according to her testimony. Ignorance of the law is no excuse however. "[W]hen statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute." Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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 for 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 had health insurance for 1 month(s) in 2022. She has been assessed a tax penalty for 8 months. She appealed the assessment. See Exhibits listed above. 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 either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

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Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 7.60%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find Employer-Sponsored Insurance coverage was unavailable.

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, The Appellant may be eligible for Advance Premium Tax Credits (APTCs) since their income is between 300% and 400% of the Federal Poverty Level, and they do not have access to affordable employer health coverage. The Appellant does not qualify for ConnectorCare as their income is more than 300% of the Federal Poverty Limit but may qualify for Advance Premium Tax Credits.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Because the Appellant's Income was

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358% of the Federal Poverty Level, she may be eligible for Advance Premium Tax Credits (300.1-400% FPL) for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$48,712.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$308.51 per month; according to Table 4, Appellant, who was 34 years old in 2022, lived in Bristol County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$290.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,059.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$308.51 per month), the Appellant could have afforded private health insurance with a premium of \$290.00 per month. (2022 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Appellant's Claims of Inequity

In the present case, the Appellant testified that due to a position change and company restructuring, her employer informed her at the end of 2021 that she would no longer be provided with health insurance. According to the Appellant's credible testimony, she received a letter from her employer confirming that she would not be offered health insurance coverage beginning January 1, 2022.

Upon receiving this information, the Appellant attempted to obtain eligibility to shop for health insurance through the Health Connector. However, when she applied, the Health Connector rejected her application, stating that she was ineligible to shop with them because their records indicated that she was currently being offered employer-sponsored coverage. The Appellant's denial of eligibility letter advised her that she could provide documentation to demonstrate that the Health Connector's eligibility determination was incorrect.

Acting on this advice, the Appellant submitted the letter she had received from her employer to the Health Connector, proving that she was not being offered health insurance by her employer. Despite this, when she again attempted to shop for health

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insurance plans through the Health Connector, she was once more denied eligibility due to the Health Connector's incorrect identification of her as having employer-sponsored coverage.

The Appellant testified that she made numerous phone calls to the Health Connector to resolve the issue, but on each occasion, she was told that she was ineligible to shop. Feeling frustrated and believing she had exhausted all options, the Appellant gave up on obtaining health insurance. She decided to reapply during the open enrollment period at the end of 2022.

In November 2022, the Appellant applied again but was still informed by the Health Connector that she was ineligible to shop for insurance because she was being offered employer-sponsored insurance. However, during a subsequent phone call, she connected with a customer service representative who reviewed her past application and the correspondence from her employer. The representative confirmed that the Appellant was not being offered health insurance by her employer and resolved the issue, allowing her to shop for insurance. As a result, the Appellant now has health insurance through the Health Connector, which costs her approximately \$275 per month.

Based on the rules and regulations contained in 956 CMR 6.08(3), which state that the Connector shall consider any other grounds that an appellant may claim demonstrates that they could not afford to purchase health insurance that met minimum creditable coverage standards, the tax penalty for this Appellant shall be waived.

The Appellant made a good faith and diligent effort to obtain health insurance through the Health Connector and provided the necessary documentation to support her case. However, due to a technical glitch in the Health Connector's application processing system, which incorrectly identified her as having been offered employer-sponsored insurance, she was repeatedly denied the opportunity to shop for coverage. This issue was the primary reason for her inability to obtain health insurance, despite her sincere attempts to do so. Therefore, the Appellant's tax penalty shall be waived.

Conclusion

Based on the credible testimony provided by the Appellant and the supporting documentation she submitted, it is evident that she made a sincere and diligent effort to obtain health insurance through the Health Connector after losing her employer-sponsored coverage. Despite her good faith attempts to comply with the requirements, she was repeatedly denied the opportunity to shop for insurance due to a technical glitch in the Health Connector's application processing system. This glitch incorrectly identified her as having been offered employer-sponsored insurance, even after she provided proof to the contrary. Considering the Appellant's circumstances

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and the provisions of 956 CMR 6.08(3), which allow for the consideration of other grounds that demonstrate an inability to afford health insurance meeting minimum creditable coverage standards, the tax penalty for the Appellant shall be waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2022 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth’s minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if she is eligible for assistance in obtaining health insurance.

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 13, 2024

Decision Date: Friday, March 29, 2024

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 13, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |

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Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	Correspondence from the Health Connector, dated 9/5/2023	1 page
Exhibit 5	National Grid Final Disconnection Notice, dated 10/5/2022	1 page
Exhibit 6:	National Grid Termination Notice, dated 11/20/2022	1 page
Exhibit 7:	National Grid Final Disconnection Notice, dated 5/1/2023	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Essex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$32,515.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 239% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3A (200.1-250% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Server at a Restaurant (Full Year) in a part-time capacity. (Appellant's Testimony). Also in 2022, the Appellant worked a second part-time position as a Real Estate Agent at a Brokerage (Full Year).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employers.
7. The Appellant does currently have Health Insurance through the Health Connector. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in

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effect for 2022.

9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$32,515.00 was deemed able to pay \$135.48 per month for health insurance, or 5.00% of his income. According to Table 4, Appellant, age 30 and living in Essex County, could have purchased private insurance for \$277.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$900.00	<u>Car Insurance</u>	\$117.00	<u>Medical/Dental</u>	\$25.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$130.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$400.00	<u>Clothing</u>	\$50.00
<u>Heat</u>	\$75.00	<u>Cell Phone</u>	\$112.00		
<u>Electricity</u>	\$100.00	<u>Household & Toiletries</u>	\$88.00		
				<u>Total:</u>	\$1,997.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$2,709.58. His necessary expenses were determined to be \$1,997.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$268.54 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, the expense of purchasing health insurance would have

¹The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To present a more accurate picture of the Appellant's financial situation over the entire tax year, certain expenses were normalized to reflect average monthly costs. For instance, if the Appellant purchased a new car in June with a monthly payment of \$370, that expense was averaged over the 12-month tax year to be \$185 per month. This adjustment ensures that monthly costs, which might have been unusually high or low for a specific period, are more accurately represented in the context of the Appellant's annual budget and adjusted gross income.

caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; (Testimony of Appellant, Exhibit 2).

14. 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 2022 (Testimony of Appellant).
15. Appellant was not homeless and did not fall more than thirty days behind in rent payments in 2022.
16. Appellant did receive shut-off notices for basic utilities.
 - a. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant, Exhibits 5, 6 and 7.)
17. In the appeal, the Appellant conveyed that the monthly cost for Health Insurance through the Health Connector was beyond his financial means. (Appellant's Testimony).
18. The Appellant has been assessed a penalty for not having health insurance in 2022 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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.

The Appellant was not aware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. "[W]hen statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute." Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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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 for 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 had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. 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 either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2022 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 5.00%.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable. Because the appellant was either not employed during the tax penalty period or was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer

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insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3A in tax year 2022.

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2022, the Appellant would qualify for Plan Type 3A through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3A is \$90. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for Advance Premium Tax Credits because their income is below 300% of the FPL.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$32,515.00, was deemed unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$135.48 per month; according to Table 4, Appellant, who was 30 years old in 2022, lived in Essex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,709.58 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$135.48 per month), private health insurance with a premium of \$277.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program.

Financial Hardship Analysis

Since the Appellant is eligible for ELIGIBLE for Plan Type 3A in 2022, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

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Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$1,997.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is \$268.54. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

Addendum: Appellant may want to contact the Connector at 1-877-623-6765 to find out if he is eligible for assistance in obtaining health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1418

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 5, 2024

Decision Date: April 23, 2024

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 for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant's testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellant's Letter in Support of Appeal (1 page);
5. Town Tax Collector Notice (due 5/1/23);
6. Car Insurance (2/20/23);
7. Capitol One Credit Card (4/20/23);
8. Town Water Bill (3/20/23);
9. Town Electric Bill (4/2/23);
10. Townsend Energy Oil Bill (5/1/23);
11. Acura Financial Services Car Lease (5/1/23);

12. Rocket Mortgage (4/15/23); and
13. Marraffa & Associates Payroll (4/2/23 – 4/15/23).

FINDINGS OF FACT

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$65,342. Exhibit 1.
3. The Appellant was 58 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant is a widow who has struggled financially since her Husband died in 2017. The source of the Appellant's annual income is part from her late Husband's pension and part from the Appellant's employment. The Appellant's work income declined during the coronavirus pandemic (COVID-19) due, in large measure, to reduced working hours. Testimony and Exhibit 4. See also Exhibit 13.
5. The Appellant carefully documented her living expenses with bills from 2023. See Exhibits 5 – 12. I accept the bills, augmented by her testimony during the appeal hearing, as representative of her 2022 financial circumstances.
6. The Appellant has not been insured since her Husband died since she no longer qualifies as a dependent on the health insurance coverage provided by her Husband's employer. Testimony. See also Exhibit 1.
7. The Appellant had insurance through the Health Connector for two months in 2023. She dropped the coverage because she could not afford the monthly premium. The Appellant filed appeals from tax penalties assessed for 2019 and

2012 but she did not complete the appeal process. The Appellant paid the penalties. Testimony and Exhibit 1.

8. The Appellant describes herself as wanting health insurance, as she is “too old” not to be insured and, in addition, she cannot afford the tax penalties that are assessed for not being insured. Exhibit 4 and Testimony.
9. Under the objective standards set forth in DOR Table 3 the Appellant could afford to pay \$435 per month for health insurance based on her \$65,342 federal adjusted gross income (AGI). (The calculation is 8.00% multiplied by \$65,342 AGI = \$5,227.36 per year divided by 12 = \$435.61 per month).
10. Under the premiums set forth in DOR Table 4 the Appellant could obtain individual health insurance for \$435 per month at her age (55+) and location in the Commonwealth.
11. The Appellant was behind in her payment for fuel oil that she obtains through a budget plan. In May 2023 the Appellant owed \$590 consisting of \$380 for the current amount due and \$210 for past due amount. Exhibit 10.
12. The Appellant owed a \$8,830 balance on a credit card, with a \$286 minimum amount owed. Exhibit 7.
13. The Appellant owed her Town \$200 for her water bill and \$70 for electric bill. The Appellant is up-to-date in her real estate tax payments. Exhibits 5, 8 and 9.
14. The Appellant owed \$532 per month for a car lease, with a \$39,678 pay off amount. Exhibit 11.
15. The Appellant refinanced her home mortgage after her Husband died. Her monthly payments are \$1730 on a \$269,000 loan amount. Testimony and Exhibit 12.
16. The Appellant’s grocery bill has increased to approximately \$150 per week, an amount that the Appellant describes as “insane.” Testimony.

17. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
18. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum

creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal points to the Appellant inability to afford health insurance. In addition to the documents presented by the Appellant (Exhibits 4 – 13) standards set forth in DOR Tables 3 and 4 shows that the \$435 per month that the Appellant could afford to pay for health insurance exactly matches the \$435 per month that she would have to pay. See Findings of Fact, Nos. 9 and 10.

The Appellant has not been insured since her Husband died and she lost her coverage under her Husband’s health insurance at work. She has struggled financially based on her income consisting of her late Husband’s pension and her employment. There is no need to repeat all the evidence that the Appellant presented that is listed in the Exhibits and Findings of Fact, above.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2022. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([“The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”). **See my RECOMMENDATION below.**

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 2022 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 2022.

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: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. I appreciate your statement that you need health insurance and also your most recent experience that you felt you were not able to maintain the monthly premium payments for health insurance that you obtained through the Health Connector. I suggest that you contact Health Care For All, which is a private, non-profit organization separate from the government that helps people with health insurance problems. You can reach HCFA's free consumer hotline at 1-800-272-4232 or use the website at www.hcfama.org. I add that the Health Connector recently increased its eligibility standards so you may learn that you now qualify for government-subsidized health insurance.

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1516

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 5, 2024

Decision Date: April 6, 2024

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 for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages, dated 3/18/24);
4. Appellant’s Letter in Support of Appeal (2 pages, dated 10/26/23);
5. Health Connector/Allways Health Plan Membership Card; and
6. Redirect Health Card [New York coverage].

FINDINGS OF FACT

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 2 month penalty for the months of November and December 2022. Exhibits 1 and 2. See also Exhibit 4.
2. At the outset of 2022 the Appellant resided in New York, where he had resided for a number of years. The Appellant had health insurance coverage throughout the period when he continued to reside in New York. Testimony and Exhibit 4.
3. In August 2022 the Appellant relocated to Massachusetts, where he resided in [name of city or town omitted] in Norfolk County for the remainder of 2022, as declared in the 2022 Massachusetts income tax return that he filed for 2022 as a single person. Exhibit 1 (part-year resident from 8/22/22 to 12/31/22). See also Exhibit 4 and Testimony.
4. In 2022 the Appellant shifted his health insurance coverage as he relocated from New York to Massachusetts. For the months of October, November, and December 2022 the Appellant was insured as a dependent on his partner's Allways Health Plan associated with the Health Connector. Testimony, Exhibit 4 (Appellant's supporting letter), and Exhibit 5 (Allways/Health Connector membership card). (I take administrative notice that the Allways Health Plan has been renamed Mass General Brigham Health Plan. See www.MAhealthconnector.org.)
5. I find that the Appellant was insured all 12 months in 2022 based on the evidence in the hearing record that I found credible. See Exhibit 4 ("I maintained personal healthcare coverage for the entirety of 2022"). Initially the Appellant was insured through his New York health plan. For October, November and December 2022 the Appellant was insured under a Massachusetts health plan. Exhibit 4 and Testimony. See also Exhibit 5 (Massachusetts coverage) and Exhibit 6 (New York coverage).
6. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.

7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant’s appeal from the Massachusetts Department of Revenue’s (DOR) assessment of a 2 month tax penalty because the Appellant did not have health insurance coverage in the months of November and December 2022 that satisfied the Massachusetts minimum creditable coverage standards (“MCC”). See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the “individual mandate” under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, “shall obtain and maintain” health insurance coverage, as long as it is “deemed affordable” under the schedule set by the Health Connector’s board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards (“MCC”) in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for “each of the months” that the person did not have health insurance, as required by the individual

mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector’s Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The facts that the Appellant presented in this appeal establish that the Appellant was insured for the months of October, November, and December 2022 as a dependent subscriber added to his partner’s health plan. Thus, the Appellant has complied with the “individual mandate” under Massachusetts law and is not subject to a tax penalty. (The administrative grace period would shield the Appellant for the part of August and the month of September before the Appellant’s new coverage took effect. The DOR recognized that the penalty provisions took effect for November and December.)

The Appellant was a part-year Massachusetts resident, starting on August 22, 2022 when he relocated from New York to Massachusetts. Under Massachusetts law only Massachusetts residents are subject to the penalty provisions in the “individual mandate” as described above. The Appellant shifted his insurance coverage to a Massachusetts health plan effective starting in October 2022, and thus he was fully covered for 2022.

For the foregoing reasons, I waive the entire tax penalty imposed for 2022. The Appellant should take care to obtain Form MA 1099-HC and file it with his Massachusetts income tax return, following the Schedule HC Instructions.

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 2022 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 2022.

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1517

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 24, 2024

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 for the hearing, which I conducted by telephone. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Appellant’s testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2022;
3. Health Connector’s Notice of Hearing (2 pages);
4. Appellant’s Letter in Support of Appeal (1 page; dated 10/31/23);
5. Letter from Health Connector Processing Center (dated 4/11/22);
6. Waiver Issued by Office of Patient Protection (No. 22-214844) (6/17/22);
7. Letter from Health Connector Processing Center (dated 7/6/22);
8. Letter from Health Connector Processing Center (dated 9/7/22).

FINDINGS OF FACT

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is factually accurate, but that it is erroneous for other reasons referred to below.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$56,272. Exhibit 1.
3. The Appellant was 37 years old at the beginning of 2022 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. Based on DOR Table 3 the Appellant could afford to pay 8.00% of her income -- or \$375 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$56,272 AGI = \$4,501.76 per year divided by 12 months = \$ 375.14 per month.)
5. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$298 per month in 2022.
6. The Appellant obtained a new job in March 2022. She anticipated that her new job would be a qualifying event and that she would be able to enroll in her new employer's health insurance plan without waiting for a new open enrollment period. The Appellant's insurance application was denied by the Health Connector on April 11, 2022. Exhibit 4 (Appellant's Letter Supporting Appeal) and Testimony. See also Exhibit 5 (Appellant needs qualifying event).
7. The Appellant appealed the Health Connector's decision denying her application for health insurance. On June 17, 2023, the state Office of Patient Protection approved the Appellant's appeal, thereby allowing the Appellant to enroll in health

insurance. Exhibit 6 (“waiver has been approved”). See also Exhibit 4 and Testimony.

8. The Appellant resubmitted applications for health insurance coverage. On July 6, 2022, and on September 7, 2022, the Health Connector again denied her application, stating that the Appellant needed a qualifying event. Exhibits 4, 7, and 8 and Testimony.
9. The Health Connector informed the Appellant that she had to wait until a new open enrollment period starting in November 2022 to apply for health insurance that would take effect in January 2023. The Applicant submitted a new application during the Fall 2022 open enrollment period, and she was insured beginning in January 2023. Testimony and Exhibit 4.
10. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2022 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

The appeal in this case presents a different issue. The starting point is the Health Connector's decision to deny the Appellant's application for health insurance that she filed when she obtained a new job in March 2022. The reason for the Health Connector's denial was that the open enrollment period for 2022 had closed and the Appellant had not sustained a qualifying event that would allow her to bypass the open enrollment period. The consequence of the Health Connector's decision was that the Appellant

could not be insured before January 2023, which leads to the 12 month penalty that the state Department of Revenue assessed for 2022.

The Appellant appealed the Health Connector's decision to the state Office of Patient Protection (an uncommon step in my experience). The OPP ruled in the Appellant's favor, enabling the Appellant to bypass the open enrollment period and the need for a qualifying event. See Exhibit 6 ("Based on the information that you have provided, the Office of Patient Protection has **approved your waiver request** because you certified that you did not intentionally forego enrollment." (emphasis added)). Despite the OPP waiver the Health Connector continued to deny the Appellant's health insurance applications based on the same reason: the lack of a qualifying event. See Exhibits 4, 5, 7 and 8. See gen. 958 Code Mass. Regs. 3.0.

Based on the evidence presented in the hearing record (the Health Connector did not participate in the appeal) the open enrollment/qualifying event requirement had been waived by the Office of Patient Protection. The Appellant should have been insured in 2022 after she obtained the OPP waiver. To now impose a tax penalty for 2022 would simply compound the failure to comply with the OPP waiver.

For the foregoing reasons I waive the entire 12 month penalty assessed by the state Department of Revenue for 2022.

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 2022 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 2022.

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-1523

Appeal Decision: Appeal Approved -- 2022 tax penalty overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (Wife) appeared for the hearing, which I conducted by telephone, on behalf of herself and her Husband. A document was submitted on behalf of the Massachusetts Department of Revenue (DOR) prior to the hearing (Exhibit 1). The hearing record consists of the Wife's testimony under oath and the following documents that were admitted into evidence as exhibits.

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2022;
3. Health Connector's Notice of Hearing (2 pages);
4. Appellants' Letter in Support of Appeal (1 page);
5. Health Insurance Membership Cards;
6. Health Insurance Billing: \$300.01 per month (Nov. 2020 – Nov. 2022);
7. Carewell Urgent Care Billing: \$245 Past Due;
8. Two USPS Receipts;
9. Trios Billing for Carwell Services: \$245 Past Due;
10. Action Collection Agency: \$245 (5/2/23);

11. USPS Receipt for Carewell (5/8/23);
12. Wife's Letter Requesting Claim Review;
13. Trada Claims Department Responset: Submit Claims to Salvasen;
14. Wife's Request that MA Attorney General Claims Manager Call;
15. MA Division of Insurance Notice: DOI Lacks Regulatory Authority Over Appellants' Complaint – Refer Complaint to MA Attorney General's Office (4/20/23);
16. Wife's Email to Salvasen Health Asserting Claim (4/11/23);
17. Wife's Request for Call From MA Attorney General Claims Manager;
18. Communication from Salvasen Requesting Claim Details (4/21/23);
19. Wife's Reply to Payment of \$245 Service Bill;
20. Salvasen Notice: Claim Too Late to Process;
21. Wife's Reply to Salvasen (Exhibit 23) (5/12/23); and
22. Wife's 3.4.24 Letter to MA Health Connector Re "Fake" Insurance.
23. MA Division of Insurance Letter Acknowledge Receipt of Claim;
24. MA Health Connector, Administrative Information Bulletin 01-22: Guidance Regarding a Special Enrollment Period for Enrollees in Salvasen Health, LLC Plans (Jan. 25, 2022); and
25. MA Division of Insurance and MA Health Connector: Notice for Consumers Regarding Salvasen Health (Feb. 18, 2022).

FINDINGS OF FACT

I make the following findings of fact based on the testimony at the hearing and the exhibits and reasonable inferences from the evidence, applying the preponderance of the evidence standard.

1. The Appellants (Wife and Husband) appealed from the Department of Revenue's assessment of a 16 month penalty for 2022 (8 months for Wife + 8 months for Husband). The basis for the penalty was that the Appellants were not insured for the months of January - November 2022 but were insured for December 2022. Exhibits 1 and 2.
2. Based on Exhibit 1, the Wife's hearing testimony, and other evidence in the hearing record, I find that the Appellants (both Wife and Husband) were insured for all of 2022. For the months of January through November the Appellants were insured through Salvasen Health, LLC, but the insurance that the Appellants' purchased for January – November 2022 did not satisfy the Massachusetts minimum creditable

coverage standards (“MCC”) and were subject to a penalty assessment by the DOR. For December 2022 the Appellants were insured by a Tufts health plan that met the MCC standards so the DOI did not assess a penalty for December.

3. I find that the Appellants paid \$300.01 per month for health insurance that the Appellants obtained from Salvasen Health which they obtained through the Health Connector for the months of January – November 2022. The Appellants also paid monthly premiums in 2021 for Salvasen health insurance coverage. See Exhibit 4, Exhibit 6, and Testimony.
4. The Appellants learned subsequently that the insurance claims that the Appellants submitted for medical services were not covered by Salvasen. The Appellants were subject to \$245 in a collection action for Carewell that the Appellant’s finally paid. Other medical providers also billed the Appellants for unpaid medical services but wrote off the claims after the Appellants explained the circumstances. Testimony and Exhibit 4. See also Exhibits 7, 9,10,12,19, 21,22, and 22. See further Exhibits 16 and 17.
5. The Appellants filed complaints with the Massachusetts Division of Insurance (DOI) and the Massachusetts Attorney General’s Office. The Insurance Division ultimately informed the Appellants that it lacked authority over the Appellants’ claim and that it was forwarding the Appellants’ complaint to the Massachusetts Attorney General’s Office. The Appellants have not received a response from the Attorney General concerning their complaint about Salvasen. (Several business names appear in the hearing record, but I will refer only to Salvasen, which is the principal corporate name.) (I note that the coronavirus pandemic (COVID-19) may have affected the government’s processing of the Appellants’ complaints.)
6. At the end of 2022 the Husband’s employer initiated health insurance coverage for its workforce, using Tufts health plan as its insurer. The Appellant’s cancelled the Salvasen Health coverage in November 2022 and enrolled in Tufts coverage starting in December 2022. The Appellants continued the Tufts coverage in 2023. Exhibits 1 and 4 and Testimony.
7. The Appellants have not received a refund of the premiums that it paid to Salvasen or payment for the medical services that the Appellants used while they were insured by Salvasen. The Appellants were never advised how they should proceed

with their complaint against Salvesen. Testimony and Exhibits 4 and 25, among other exhibits.

8. The Appellants filed a Massachusetts personal income tax return for 2022 as a married couple filing jointly with no dependents. The Appellants' federal adjusted gross income (AGI) for 2022 was \$89,348. Exhibit 1.
9. The Appellants were 30 years old at the beginning of 2022, and they resided in [name of city or town omitted] in Barnstable County, Massachusetts. Exhibit 1.
10. The Appellant's 2022 AGI (\$89,348) was more than 300% of the federal poverty level (\$52,260 for a two-person household). DOR Table 2. On this basis I infer that it is not likely that the Appellants would satisfy the financial eligibility requirements for government-subsidized health insurance.
11. Based on DOR Table 3 the Appellants could afford to pay 8.00% of their income -- or \$596 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$89,348 AGI = \$7,147.84 per year divided by 12 months = \$595.65 per month.)
12. Based on DOR Table 4 (Region 2) the Appellants could obtain health insurance for a married couple with no dependents at their age and location for \$ 554 per month in 2022.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2022 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth

income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2022.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the state Department of Revenue's (DOR) assessment of a 16 month tax penalty (8 months for Wife and 8 months for Husband) because the Appellants did not have health insurance that met the Massachusetts minimum creditable coverage ("MCC") for the months of January through November 2022. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

I begin by summarizing the legal rules that underlie this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with what is known as the "individual mandate" under the Massachusetts Health Care Reform Act of 2006. The individual mandate requires that all Massachusetts residents, age 18 and older, "shall obtain and maintain" health insurance coverage, as long as it is "deemed affordable" under the schedule set by the Health Connector's board of directors that is incorporated in the DOR tables referred to earlier. Massachusetts General Laws c. 111M, sec. 2(a). Any health insurance policy must also satisfy the Massachusetts minimum creditable coverage standards ("MCC") in order to avoid the penalty. Mass. Gen. Laws c. 111M, sec. 2(b). See also 956 Code Mass Regs. 501 and 5.03.

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-month grace period for any lapse in coverage to allow the taxpayer to make a transition between health insurance policies. Health Connector's Administrative Bulletin 03-10, applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In 2022 both the Massachusetts Division of Insurance (DOI) and the Massachusetts Health Connector issued legal directives concerning problems with the health insurance that Salvasen Health sold to Massachusetts residents. The legal directives stated, among other matters, that Salvasen is "not an insured health carrier" and is "not licensed to sell health insurance in Massachusetts." MA Health Connector, Administrative Information Bulletin 01-22: Guidance Regarding a Special Enrollment Period for Enrollees in Salvasen Health, LLC, Plans (Jan. 25, 2022). (The document is available at Exhibit 24, above.)

More detail was provided the next month in a joint notice from the DOI and the Health Connector titled "Notice for Consumers Regarding Salvasen Health" (Feb. 18, 2022). (The document is available at Exhibit 25, above). First, the DOI informed the public that products produced by Salvasen Health are "terminating as of March 31, 2022." Salvasen is "not licensed to sell health insurance in Massachusetts" and its products are "not insured health plans."

Second, DOI informed Massachusetts residents who – like the Appellants in this appeal -- had previously purchased health insurance from Salvasen that they need to obtain a new health insurance plan that complied with the Massachusetts legal requirements (known as Massachusetts minimum creditable coverage standard ("MCC") – see above). To facilitate this step, the Notice stated that the Health Connector would implement a "Special Enrollment Period" so that Salvasen policy holders could shift their insurance coverage to a new health plan within 90 days outside the open enrollment period.

Finally, the Notice stated that persons who – like the Appellants in this appeal – were assessed a tax penalty by the state Department of Revenue could appeal the penalty assessment.

In this appeal, the Appellants were assessed a 16 month tax penalty (8 months for Wife and 8 months for Husband) simply because they were enrolled in a Salvasen health plan for January – November 2022. The Appellants had already paid a monthly premium to Salvasen, and their medical expenses had not been covered by Salvasen. See, e.g.,

Findings of Fact, Nos. 3 and 4, above. The equities favor the Appellants, who made many efforts without success to address the Salvasen problem, as indicated by the documents filed in support of this appeal.

For the foregoing reasons I waive the entire 16 month penalty (8 months for Wife and 8 months for Husband) that was assessed for 2022.

PENALTY ASSESSED

Number of Months Appealed: 16 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 2022 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 2022.

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: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221153

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 26, 2023

Decision Date: April 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 26, 2023. 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 signed by Appellant on May 4, 2023

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated November 24, 2023 for December 26, 2023 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 36 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$30,022 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant worked part-time at a grocery store from January through July, 2022. The appellant worked thirty hours a week for \$16.00 an hour. Appellant was not offered health insurance through this job (Testimony of Appellant).
5. Appellant left the job at the grocery store at the end of July. He started working remotely for a company. He worked forty hours a week for \$16.50 an hour. He did not obtain health insurance through this job because he missed the open enrollment period (Testimony of Appellant).
6. Appellant had no health insurance in 2022. He has been assessed a tax credit penalty for twelve months. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$30,022 could afford to pay \$105 per month for health insurance. According to Table 4, Appellant, 36 years old and living in Plymouth County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, who earned less than \$38,640 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, 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 a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
11. Appellant did not receive any shut-off notices for basic utilities in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
13. Appellant did not have a home of his own in 2022. He lived either with his parents or his girlfriend. He could not afford rent. The appellant had the following monthly expenses for basic necessities in 2022: electricity, heat, internet- \$0; telephone-\$45; food-\$475; clothing-\$35; car payments-\$250; car insurance-\$400; gas-\$0; student debt payments-\$70. Appellant also had to pay \$10,000 for legal fees and classes as a result of a driving under the influence charge (Testimony of Appellant).
14. As of January, 2023, Appellant obtained health insurance. He had coverage all 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 2022 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 that meets minimum creditable standards set by the Commonwealth “[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.

Appellant had no health insurance which met the Commonwealth's standards in 2022. Appellant has been assessed a penalty for the entire year. The appellant has appealed the assessment. See Exhibits 1, 2,

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$30,022 could afford to pay \$105 per month for health insurance. According to Table 4, Appellant, 36 years old and living in Plymouth County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was eligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$30,022, less than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment from January through July. The appellant then began a new job, but he missed the open enrollment period. The coverage was then unavailable to the appellant. See also the testimony of the appellant which I find to be credible.

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

Appellant, who lived with his parents or his girlfriend during 2022, had the following expenses for basic necessities during the year: electricity, heat, internet- \$0; telephone-\$45; food-\$475; clothing-\$35; car payments-\$250; car insurance-\$400; gas-\$0; student debt payments-\$70. Appellant also had to pay \$10,000 for legal fees and classes as a result of a driving under the influence charge. Appellant did not pay rent. See the testimony of the appellant which I find to be credible.

Appellant's Federal Adjusted Gross Income in 2022 was \$30,022. His monthly pay came to about \$2,500 per month. Appellant, who had been charged with driving under the influence, had to pay \$10,000 for legal fees and other related expenses. That left the appellant with about \$20,000 or about \$1,650 per month before any deductions from his pay. His expenses came to about \$1,300 a month. I note that Appellant could not afford rent. I determine that after his basic expenses, Appellant had little or no disposable income. If he had had to pay for health insurance, he would have not been able to pay some of his other bills. See Exhibit 2 and the testimony of the appellant which I find credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the cost of insurance would have caused Appellant to experience a serious deprivation of basic necessities. This constitutes financial hardship, making health insurance unaffordable for the appellant.

Based on the facts and determinations noted above, Appellant's penalty is waived in its entirety.

Appellant should note that any waiver granted here is for 2022 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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: PA22-1475

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 7, 2024

Decision Date: March 28, 2024

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 7, 2024. The procedures to be followed during the hearing were reviewed with the Appellant and her representative who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-seven years old and is single with two dependents. She lives in Suffolk County, Massachusetts. Appellant worked in the medical field.
2. Appellant was separated from her husband. Appellant has two children, one of which has a severe degenerative neurological condition. Appellant was not receiving any child support. Appellant was unaware of the health insurance mandate in Massachusetts.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,573.00, consisting of rent \$1,100.00, heat & light \$200.00, internet & cable \$40, cell phone \$60.00, transportation \$150.00, food \$500.00, clothing \$100.00 toiletries \$150.00, entertainment \$40.00, significant expenses for medical transportation and rent deposit and moving \$233.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$49,935.00 was less than \$65,880.00. The monthly premium for health insurance available on the private market in Norfolk County for a 36 year old single person with two dependents was \$756.00. The tables reflect that Appellant could afford \$205.98 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was separated from her husband. Appellant has two children, one of which has a severe degenerative neurological condition. Appellant was not receiving any child support. Appellant was unaware of the health insurance mandate in Massachusetts.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$32,940.00 for a single person with two dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant is afforded three more months exemption from the penalty. Appellant reported a federal AGI of \$49,935.00 in 2022, and Appellant’s filing status was single with two dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$205.98 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$756.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____0____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1476

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 7, 2024

Decision Date: March 28, 2024

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 7, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-three years old and is single. Appellant lives in New Hampshire but lived in Middlesex County for part of the year 2022. Appellant worked as a landscaper.
2. Appellant had health insurance in 2022. Appellant provided proof of insurance with Appellant's statement of appeal and Appellant's testimony. Appellant moved to New Hampshire in June of 2022 and had health insurance in New Hampshire as of June 2022.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under "Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable" .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance in 2022. Appellant provided proof of insurance with Appellant's statement of appeal and Appellant's testimony. Appellant moved to New Hampshire in June of 2022 and had health insurance in New Hampshire as of June 2022.

The Appellant did submit a Statement of Grounds for Appeal-2022 under under "Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable" .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are

subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$26,130.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant had insurance for 2022.

Accordingly, I conclude that Appellant is exempt from a tax penalty for Appellant’s non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1480

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 7, 2024

Decision Date: March 28, 2024

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 7, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated September 1, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single. Appellant lives in Norfolk County, Massachusetts. Appellant worked as a research scientist.
2. Appellant had health insurance in 2022. She provided proof of insurance with her statement of appeal and her testimony. Appellant moved to the United States in April 2022.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance in 2022. She provided proof of insurance with her statement of appeal and her testimony. Appellant moved to the United States in April 2022.

The Appellant did submit a Statement of Grounds for Appeal-2022 under under “Other. During 2022 other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at

<http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$26,130.00 for a single person with one dependent. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant's 2022 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant had insurance for 2022.

Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1527

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 10, 2024

Decision Date: April 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 10, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated March 11, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated November 14, 2023
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty years old and is married with two children. He lives in Berkshire County, Massachusetts. Appellant works in the software business.
2. Appellant had health insurance in 2022 but it did not meet the Massachusetts requirements. His wife was not eligible to buy health insurance from her company. Appellant testified and provided documents (Exhibit 4) that indicated that his company, a New York based company offered health benefits by contributing \$1,033.42 each month to the cost of Appellants costs for his health plan. Appellant testified that his health plan did not meet the MCC requirements of \$2,700. Deductible and \$5,400.00 family deductible.
3. Appellant did have health insurance in 2023 and does have health insurance in 2024.
4. The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements” .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant had health insurance in 2022 but it did not meet the Massachusetts requirements. His wife was not eligible to buy health insurance from her company. Appellant testified and provided documents (Exhibit 4) that indicated that his company, a New York based company offered health benefits by contributing \$1,033.42 each month to the cost of Appellants costs for his health plan. Appellant testified that his health plan did not meet the MCC requirements of \$2,700. Deductible and \$5,400.00 family deductible.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “During 2022, you purchased health insurance that didn’t meet credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$39,750.00 for a married person with two dependents . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant had insurance for 2022 but it did not meet the MCC standard for deductibles.

Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate. The Appellant is advised that this decision will have no precedential weight in future decisions.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1426

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024

Decision Date: April 1, 2024

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 14, 2024. 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 (1-11-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (6-13-23) (with letter and documents) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2022, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2022, through the employer, but did not receive a 1099-HC for half of the year. Instead, Appellant received a 1095-C for June through December. (Appellant's testimony, Exhibits 2, 3). Appellant had the same insurance and same employer for the entire year, and it was unclear why the employer used a 1095-C for the second half of the year. (Testimony, Exhibit 3).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$42,646.00 (Exhibit 2).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
5. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$264.00.
6. Private insurance was not affordable for the Appellant in 2022. (Schedule HC for 2022).
7. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
8. Appellant claimed that they should be granted a waiver based on the grounds that Appellant had insurance the entire year through the employer. (Testimony of Appellant, Exhibit 3).
9. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
10. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for 2022, through the employer, but did not receive a 1099-HC for June through December. Instead, they received a 1095-C for those months, that did show coverage. They have been assessed a tax penalty for four months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the

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

Private insurance was not affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$42,646.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$264.00 per month; according to Table 4, Appellant, who was 27 years old in 2022, from Suffolk County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 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 should be granted a waiver based on the grounds that Appellant had insurance the entire year through the employer but did not receive a 1099-HC for June through December. It is not clear why there was not a 1099-HC for the entire year. Appellant did, however, have the insurance for the entire year. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2022 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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: PA22-1427

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024

Decision Date: April 8, 2024

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 14, 2024. The hearing record consists of the Appellant's testimony, through an interpreter, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (1-11-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (6-14-23) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 62 during 2022, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for December 2022, through the employer, but did not have health insurance for the remaining months of 2022. Appellant's hours were reduced and Appellant was therefore not able to get insurance through the employer for part of the year. (Testimony, Exhibit 3).
3. Appellant did try to get insurance through the Health Connector but did not believe it was affordable. (Testimony).
4. Appellant regained the insurance through the employer and still has it. (Testimony, Exhibit 3).
5. Appellant's Federal Adjusted Gross Income for 2022 was \$90,276.00 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$435.00 for coverage. According to Table 3, Appellant was deemed to afford \$601.00.
8. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
9. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
10. Appellant claimed that they should be granted a waiver based on the grounds that Appellant had insurance through the employer but due to a reduction in hours did not qualify for some of the months of 2022. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for December of 2022, through the employer, but not for the remaining months of 2022. 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 affordable for the Appellant during 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$90,276.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$601.00 per month; according to Table 4, Appellant, who was 62 years old in 2022, from Suffolk County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$435.00 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 should be granted a waiver based on the grounds that Appellant had insurance for some of year through the employer but did not qualify for some of the months due to a reduction in hours. Appellant then regained the insurance and continues to have it through the employer. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2022 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 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 2022.

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: PA22-1429

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 21, 2024

Decision Date: April 8, 2024

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 14, 2024. 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 (1-11-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (6-15-23) (with letter and documents) (20 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2022, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant believed that they did have health insurance for 2022, through MassHealth, because Appellant received treatment throughout 2022 and did not pay directly. (Testimony, Exhibit 3).
3. Appellant also had expenses for a deductible for a car accident that was not their fault. (Testimony, Exhibit 3).
4. Appellant's expenses for food, shelter, clothing, and other necessities used most of the income. The monthly expenses totaled \$2,765.00 or \$33,180.00 per year.
5. Appellant's employer is now providing insurance. (Testimony).
6. Appellant's Federal Adjusted Gross Income for 2022 was \$44,509.00 (Exhibit 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$276.00.
9. Private insurance was not affordable for the Appellant in 2022. (Schedule HC for 2022).
10. Appellant's AGI was over 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
11. Appellant claimed that they should be granted a waiver based on the grounds that Appellant had insurance through MassHealth and could not have afforded insurance privately. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for 2022, through MassHealth, but had no documents to prove it. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$44,509.00 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 \$276.00 per month; according to Table 4, Appellant, who was 27 years old in 2022, from Norfolk County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 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 should be granted a waiver based on the grounds that Appellant had insurance through MassHealth and could not have afforded private insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2022 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2022.

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: PA22-1479

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 7, 2024

Decision Date: March 29, 2024

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 7, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated February 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated August 22, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-six years old and is single. He lives in Plymouth County, Massachusetts.
2. Appellant worked in the security business. Appellant and the mother of his two children broke up and Appellant helped his significant other with setting up a separate household and this impacted his ability to pay for his regular expenses and he fell behind on his mortgage payments and received notices of potential foreclosure. Appellant also incurred legal expenses in litigating custody of his two children.
3. Appellant did have health insurance in 2023 and in 2024 but is in a controversy about payment.
4. The Appellant's monthly expenses totaled \$4,325.00, consisting of mortgage \$1,260.00, heat & electricity \$250.00, internet & cable \$30.00, cell phone \$65.00 car payment \$400.00, car insurance \$200.00, car gas \$320.00, food \$600.00, clothing \$200.00, entertainment \$400.00, water & sewer \$100.00, legal bills \$500.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$60,536.00 was more than \$52,260.00. The monthly premium for health insurance available on the private market in Plymouth County for a 35 year old single person with one dependent was \$756.00. The tables reflect that Appellant could afford

\$375.82 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked in the security business. Appellant and the mother of his two children broke up and Appellant helped his significant other with setting up a separate household and this impacted his ability to pay for his regular expenses and he fell behind on his mortgage payments and received notices of potential foreclosure. Appellant also incurred legal expenses in litigating custody of his two children.

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$26,130.00 for a single person with one dependent. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$60,536.00 in 2022, and Appellant’s filing status was single with one dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$375.82 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$756.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____0____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1526

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 10, 2024

Decision Date: April 12, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 10, 2024. 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 and his mother's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Notice of Hearing dated March 11, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated October 14, 2023
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is sixty-five years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant worked in as a plasterer in a union shop. He retired in 2019 but still worked on call for the union. If he worked 800 hours a year he would receive health insurance for the following year. Appellant did not work enough hours to be eligible for health insurance for 2022. He is now applying for Medicare.
3. Appellant did not have health insurance in 2023 and is applying for Medicare for 2024 does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,342.00, consisting of rent \$1,200.00, heat & light \$150.00, cell phone \$100.00, car insurance \$52.00, car gas \$280.00, food \$400.00, toiletries \$160.00 .
5. The Appellant did not submit a Statement of Grounds for Appeal-2022 but should have appealed under " During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear his appeal under this ground.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$46,507.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 64 year old single person was \$435.00. The tables reflect that Appellant could afford \$294.54 This is more

than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant worked in as a plasterer in a union shop. He retired in 2019 but still worked on call for the union. If he worked 800 hours a year he would receive health insurance for the following year. Appellant did not work enough hours to be eligible for health insurance for 2022. He is now applying for Medicare.

The Appellant did not submit a Statement of Grounds for Appeal-2022 but should have appealed under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. I will hear his appeal under this ground.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2022. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,507.00 in 2022, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$294.54 monthly for health insurance. See 2022 Schedule HC Instructions and Worksheets, *supra* at Table 3. *Id.* at Table 4. The monthly premium for health insurance available on the private market in Middlesex County for a 64 year old single person was \$435.00.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2022 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: ____12 ____ Number of Months Assessed: ____0____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA23-8

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: March 28, 2024

Decision Date: April 15, 2024

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 28, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Final Appeal Decision in PA12-703 dated November 18, 2013
- Ex. 4—Final Appeal Decision in PA13-1630 dated October 20, 2014
- Ex. 5—Final Appeal Decision in PA21-1827 dated August 15, 2022
- Ex. 6—Notice of Hearing

The record was held open at the close of the hearing for documentation requested by the hearing officer. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 7—Employer health insurance information for 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 40-years-old, is single and does not have children. He did not have health insurance in 2023. He resided in Worcester County, MA in 2023. (Testimony, Ex. 2)
2. Prior to 2023, the appellant last had health insurance in 2019 through his employer. He was not subject to a penalty for the 2020, 2021 and 2022 tax years for failing to obtain health insurance. (Testimony, Ex.5)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant was employed in 2023 and was eligible for employer health insurance, but did not enroll because he believed the monthly cost was approximately \$450.00 which he determined was unaffordable. (Testimony)
4. The monthly cost for an individual plan through the appellant's employer which met minimum creditable coverage (MCC) and minimum value standards was \$337.70. (Ex. 6)
5. The appellant investigated other health insurance options, but extenuating circumstances interfered with his ability to pay the cost. These included the threat of a \$600.00/month increase in his rent which did not ultimately materialize; several school loans and high debt which he was paying off; the purchase of a new car which unexpectedly needed a new tire for \$400.00; and a car accident which required him to pay for the deductible on his insurance policy (for which he was ultimately reimbursed). He believes that if he had obtained health insurance, there would have been several occasions when his bank balance would have fallen below \$0. (Testimony)
6. The appellant was assessed a penalty for failure to obtain health insurance for the 2012, 2013 and 2021 tax years. He filed an appeal for each year and following a hearing, the penalty was overturned. In PA12-703, the hearing officer concluded that although private health insurance was affordable, the cost would have caused a serious deprivation of food, shelter clothing or other necessities. She also considered other circumstances including unpaid time from work due to caring for his ill mother and repairs for his car. In PA13-1630, the hearing officer concluded that the appellant incurred a qualifying hardship because he had fallen behind in his rent by three months and had to borrow money to cover the debt. Finally, in PA21-1827, the hearing officer concluded that although the appellant was eligible for subsidized insurance through the Health Connector, his part-time hours were reduced and his rent was increased causing him an undue hardship. (Exs. 3,4,5)
7. The appellant did not enroll in employer health insurance for 2024 because he is focused on paying off his student loans and saving money for a possible move to another part of the country. (Testimony)
8. The appellant reported an adjusted gross income of \$65,249.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)
9. In 2023, the appellant had regular monthly expenses of approximately \$3090.00 for rent (\$1000.00), heat (\$150.00), electricity (\$100.00), internet and streaming service (\$90.00), cell phone (\$130.00), automobile loan (\$355.00), automobile insurance (\$265.00), gas (\$200.00), and food (\$800.00). In addition, he paid approximately \$250.00/month for a school loan and approximately \$550.00/month for credit card debt. (Testimony, Ex. 2)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

Massachusetts General Laws c. 111M, section 2, also known as the "individual mandate", requires every adult resident of the state to obtain health insurance coverage "[s]o long as it is deemed affordable." Residents who do

not obtain insurance are subject to a tax penalty. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with the mandate that is part of the Health Care Reform Act of 2006.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2023 because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 2) he incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage.

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 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2023, he last had health insurance through his employer in 2019, and was not subject to a penalty for the 2020, 2021 or 2022 tax years. He testified that employer health insurance was available, but he did not enroll because he believed the monthly cost was approximately \$450.00 which he could not afford. He further testified that he looked into other insurance options, but determined that extenuating circumstances interfered with his ability to pay the premium.

With respect to the second ground for the appeal, the appellant did not provide any evidence or testimony of a fire, flood, natural disaster or other unexpected natural or human-caused event which caused substantial household or personal damage. Accordingly, it is concluded that he does not qualify for a waiver of the penalty on that ground and this analysis will only consider the first ground specified for the appeal.

The first issue to consider is whether the appellant had access to affordable employer insurance in 2023. The employer provided information which indicated that the approximate cost for an individual plan was \$337.00 per month. 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 advanced premium tax credit (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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12% 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 \$337.00. That cost is less than 9.12% of the appellant's projected household MAGI for 2023 (i.e. 9.12% of \$65,429.00 is \$5967.12 or \$497.26/month).² Hence, since the cost of employer insurance is less than \$497.26/month, he 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).

² 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.

With respect to private health insurance, the evidence provided by the appellant established that his income for 2023, \$65,249.00, was greater than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income at or above \$54,361.00 is deemed to be able to afford a monthly premium of \$436.19 (8.00% of \$65,429.00/12). Table 4 of the Premium Schedule indicates that a 39-year-old individual (the age of the appellant in 2023) in Worcester County (where the appellant resided in 2023) could have purchased private health insurance for \$335.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2023.

Even though employer and private health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2023, he incurred basic monthly expenses of approximately \$3890.00, including his school loan and credit card payments. Although those expenses were less than his regular monthly pre-tax income of approximately \$5452.00, the difference between income and expenses of \$1562.00 was an inadequate cushion to cover a monthly premium of \$337.00 for employer health insurance and \$335.00 for private health insurance, particularly in light of unforeseen expenses which inevitably arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

It is noted that this is the fourth time the appellant has appealed the penalty and had it overturned. While there is no evidence that he has not previously incurred undue hardships, it appears that he has raised similar or identical grounds of extenuating circumstances in past appeals, including rent arrearages and car troubles, thus suggesting that he has developed a successful method to have the penalty waived. Furthermore, the fact that he has not enrolled in insurance in 2024 indicates that he is not incentivized to do so. He is therefore advised that he should not rely on a similar extension of leniency should he be assessed and appeal a penalty in the future.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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.

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

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: PA23-9

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: March 28, 2024

Decision Date: April 12, 2024

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 husband appeared at the hearing which was held by telephone on March 28, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- 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. The documentation was submitted in a timely manner and was marked as follows:

- Ex. 4—2023 IRS Form 1095-B

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant husband is 34-years-old, the appellant wife is 29-years-old, and they do not have children. In 2023, the husband had minimum creditable coverage (MCC) health insurance from January through August, and from November through December. The wife had MCC insurance for the whole year. (Testimony, Exs. 1,4)
2. The appellants had health insurance with MassHealth from 2020 through most of 2023. The husband believed that his insurance was active in September, 2023, but discovered that it had been terminated during a dental appointment in September. He contacted MassHealth and was advised that his coverage

¹ Ex. 2 is a computer printout that extracts information submitted by the appellants on Schedule HC as part of their 2023 jointly filed Massachusetts income tax return. It also contains information about prior appeals, if any.

had ended in August due to a problem with his address. He was unable to reinstate the insurance with MassHealth, but was able to enroll himself and his wife in his employer provided insurance for the months of November and December. (Testimony, Exs. 1,4)

3. The appellant wife had coverage through MassHealth from January through November, 2023. (Testimony, Ex. 4)
4. The appellants mistakenly indicated on their Schedule HC that they did not have MCC health insurance from January through October. (Testimony, Ex. 2)

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 appellants submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to them in 2023 for “other” reasons. They also submitted a letter with their statement in which they stated in part that the husband’s insurance was unexpectedly cancelled for the months of September and October.

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 2023, 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. Although the appellant husband had MCC insurance from January through August and from November through December, and the wife had MCC insurance for the entire year, they were assessed and are appealing a penalty of seven months based on the information they provided on their Schedule HC.

The appellant husband testified credibly that he and his wife were enrolled in health insurance through MassHealth from 2020 through most of 2023. He testified that he believed his coverage was active in September, 2023, but discovered that it had been terminated during a dental appointment in September. He testified that he contacted MassHealth and was advised that his coverage had been cancelled due to an issue with his address. He testified that he was unable to get his coverage reinstated, but was able to enroll himself and his wife in his employer health insurance for the months of November and December.

The appellant’s testimony was corroborated by a 2023 IRS Form 1095-B which indicated that he had MCC insurance from January through September, and his wife had MCC insurance from January through November. Although he was without insurance for the months of September and October, he is entitled to the application of the aforementioned three-month coverage gap, and is therefore not subject to a penalty for those months.

Based on the foregoing, the appellants’ request for a waiver from the penalty is **granted** for the months for which they were assessed. The determination that the appellants are eligible for a waiver is with respect to 2023, only and is based upon the extent of information submitted by them in this appeal.

PENALTY ASSESSED

Number of Months Appealed (husband): 7

Number of Months Assessed (husband): 0

Number of Months Appealed (wife): ___7___

Number of Months Assessed (wife): ___0___

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 202 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 2022.

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: PA23-12

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: March 28, 2024

Decision Date: April 10, 2024

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 28, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2023

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 27-years-old, is single and does not have children. In 2023, he had minimum creditable coverage (MCC) health insurance for the month of December. (Testimony, Ex. 2)
2. The appellant was insured under his parents' health insurance plan until he turned 26-years-old in January, 2023. (Testimony)
3. The appellant was employed on a part-time basis from February through June when he was laid off from his position. He was not eligible for employer health insurance during his employment. (Testimony)
4. In September, 2023, the appellant picked up a contracting job in the south where he worked until he returned to Massachusetts in December. He began a new job at that time and enrolled in employer health insurance. (Testimony)

1

Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2023 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant lived with his parents until he lost his job. He then lived in his car for the months of July and September, and then returned to live with his parents when he began work in December. (Testimony)
6. The appellant investigated health insurance options through the Health Connector during 2023 and determined that he could not afford the cost of coverage. (Testimony)
7. The appellant reported an adjustable gross income of \$25,761.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. The appellant indicated on his 2023 Schedule HC that he was a part-year resident of Massachusetts from January 1, 2023, through September 11, 2023. (Testimony, Ex. 2)

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2023, but he did not check off a specific ground for his appeal on the form.

The appellant did not have insurance from January through November, and indicated on his Schedule HC that he was a part-year resident of Massachusetts from January 1, 2023 until September 11, 2023. 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 2023, 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 his Schedule HC regarding his part-year residence, the appellant was assessed and is appealing a penalty of five months (using the application of the part-year resident rule set forth in the Schedule HC Instructions).

The appellant testified credibly that he worked on a part-time basis from February through June and was not eligible for employer health insurance. He testified that he was laid off from his position and picked up a contracting job in the south where he worked from September until he returned to Massachusetts in December. He testified that he lived with his parents until he was separated from employment, then lived in his car for the months of July and August, and then back with his parents for the month of December. Finally, he testified that he began a job in December and enrolled in employer health insurance that month.

The appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, or sudden responsibility for providing care

for a family member, or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant offered credible testimony that he was homeless for the months of July and August and lived in his car. Accordingly, it is concluded that he established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a) as a result of which he should not be subject to a penalty. (Based on this conclusion, it is not necessary to determine whether the part-year residence rule set forth on page HC-2 of the 2023 Schedule HC Instructions was properly applied on the appellant's Schedule HC.)

Based on the totality of the evidence, the appellant's request for a waiver of the penalty is **granted** for the months in question. The determination that he is eligible for a hardship waiver is with respect to 2023, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-1280

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 26, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2020. The Appellant appeared at the hearing, which was held by telephone on April 12, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2020 (1 page).

Exhibit 2: Statement of Grounds for Appeal (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on April 12, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 51 in January 2020. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2020. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2020 was \$37,466. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2020. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal form.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2020 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. The Appellant's AGI of \$37,466 was less than 300% of the Federal Poverty Level, which was \$37,470 for a single person in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2020, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$37,466, could have afforded to pay \$156 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2020 AGI was between \$31,266 and \$37,471 could have spent 5% of their earnings on health insurance; 5% of \$37,466 is \$1,873, and one-twelfth of \$1,873 is \$156.
10. According to Table 4 of Schedule HC for 2020, the least expensive health insurance plan available on the private market to the Appellant, a single person age 50 living in Plymouth County in January 2020, cost \$420 per month.
11. The Appellant testified that they worked as a home health aide on a per diem basis throughout 2020 and that their work hours and earnings fluctuated widely. The Appellant testified that some weeks, they would work more than 50 hours per week, and some weeks, they had no work and earned nothing.
12. The Appellant testified that their employer offered health insurance and that it would have cost them \$420 per month, which the Appellant testified they did not have. The Appellant further testified that they had to maintain work hours of 36 hours per week in order to be eligible for their employer-sponsored health insurance and that in some months, they had no work.
13. The Appellant testified that they did not receive unemployment compensation in 2020.
14. The Appellant testified that they traveled an hour each day to and from work on the days that they worked.

15. The Appellant testified that they estimated they had the following monthly expenses in 2020: \$600 for housing, which included \$525 in rent for a room, plus \$75 for utilities; \$500 for a car payment, which included payment on the Appellant's current vehicle and payments on a loan for a totaled car; \$368 for gas, based on an estimate of \$85 per week; \$108 for car insurance, based on an estimate of \$1300 per year; \$47 for oil changes, based on an estimate of a \$65 oil change every six weeks; \$52 for a phone; \$867 for food, based on an estimate of \$200 per week; and \$200 for supplements for arthritis. These monthly expenses total \$2,742 per month, or \$32,904 per year.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2020. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that health insurance through their employer would have cost \$420 per month and that they did not always work the 36 hours per week that were necessary to qualify for their employer-sponsored health insurance. Finding of Fact No. 12. According to Table 3 of the Schedule HC, the Appellant could only have afforded to pay \$156 per

month for health insurance, so their employer-sponsored health insurance would not have been affordable to them, even if they had regularly worked enough hours to qualify for it. Finding of Fact No. 9.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. Again, according to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$156 per month for health insurance. Finding of Fact No. 9. However, according to Table 4 of the Schedule HC, the least expensive plan meeting MCC standards that was available to the Appellant on the private market cost \$420 per month and therefore was not affordable to the Appellant. Finding of Fact No. 10.

Third, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 8. However, I find that this insurance was not actually affordable to the Appellant because the Appellant credibly testified that their income fluctuated widely in 2020 and that in some weeks, they earned nothing. Finding of Fact No. 11. Thus, I conclude that the Appellant suffered a hardship and that if they had purchased health insurance in 2020, even on a subsidized basis, there are some months in which they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 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 2020. 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2280

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 15, 2024

Decision Date: April 22, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 15, 2024. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: Statement of grounds for appeal and supporting documentation (7 pages).
- Exhibit 3: Notice of March 15, 2024 hearing (2 pages).
- Exhibit 4: Notice of February 13, 2023 hearing (2 pages).
- Exhibit 5: Open record request, dated March 15, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 56 in November 21, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant was a part-year resident of Massachusetts and lived in Hampden County from July 21 to December 31, 2021. (Exhibit 1).
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$179,690. (Exhibit 1).

4. According to the Appellant's Schedule HC extract, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a three-month tax penalty for 2021. (Exhibit 1).
5. The Appellant did not check off a box on their statement of grounds for appeal, but submitted a handwritten letter stating in relevant part: "I received this letter and my accountant said I needed to provide proof that I had medical coverage last year. I have enclosed a cobra statement which indicates my insurance coverage would end 1/31/22. I was covered through my husband's medical coverage by his employer . . . We were going through a divorce which was finalized in January 2022. I was covered throughout the divorce process." (Exhibit 2).
6. The Appellant also submitted with their statement of grounds a COBRA Enrollment Notice dated January 25, 2022 that stated that as a result of the Appellant's divorce or separation on January 23, 2022, their medical and dental coverage would end on January 31, 2022. (Exhibit 2).
7. A hearing on the Appellant's appeal took place telephonically on March 15, 2024. (Exhibit 5). The Appellant appeared at the hearing.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction 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 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. The Appellant's AGI of \$179,690 was greater than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as single person with no dependents and claimed an adjusted gross income of \$179,690, could have afforded to pay \$1197 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was \$51,041 or more could have spent 8% of their earnings on health insurance; 8% of \$179,690 is \$14,375 and one-twelfth of \$14,375 is \$1197.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a single person with no dependents living in Hampden County and who was 55 in July 2021 could have purchased cost \$425 per month.
12. The Appellant testified that they were going through a divorce in 2021 and had insurance throughout 2021 through a family plan offered by their husband's New York-based employer.

The Appellant testified that they did not know how much was deducted from their husband's paycheck to pay for the insurance.

13. The Appellant testified that they were unaware of the Massachusetts individual mandate to have health insurance and had no idea what documentation they needed to submit for tax purposes.
14. I left the record open for the Appellant to provide documentation that would enable me to determine whether the health insurance in which the Appellant was enrolled in from July 21 to December 31, 2021 met Massachusetts' minimum creditable coverage requirements. I stated in the open record request that if the Appellant was unable to provide this information, they should provide an explanation as to why they could not obtain this information. (Exhibit 5).
15. The Appellant did not provide any information in response to my open record request.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a three-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards from July 21 to December 31, 2021, which is the period in which they lived in Massachusetts in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

The Appellant testified that they had health insurance throughout 2021, and they submitted a COBRA Enrollment Notice that stated that their health insurance coverage would end on January 31, 2022 because of their divorce. (Exhibit 2). This COBRA Enrollment Notice indicates that the Appellant did have some sort of health insurance in 2021. I left the record open for the Appellant to provide information that would enable me to determine the extent to which the Appellant's health insurance met MCC standards. (Exhibit 5). I stated that if the Appellant could not provide this information, they should

provide an explanation as to why they could not obtain such information. (Exhibit 5). The Appellant did not provide any information in response to my open record request. Finding of Fact No. 15.

Because the Appellant did not provide information in response to my open record request, there is insufficient information for me to conclude that the insurance in which the Appellant was enrolled from July 21 to December 31, 2021 substantially met MCC standards so as to justify waiving the Appellant's tax penalty. See 956 CMR 6.08(2)(d).

The evidence in the record shows that the Appellant had access to affordable health insurance meeting MCC standards. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$1197 per month for health insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased private health insurance that cost \$425 per month and therefore was affordable. Findings of Fact Nos. 10 and 11. The Appellant did not make an argument or present any evidence that they suffered a hardship such that they could not afford this private health insurance and that their tax penalty should be waived.

Reviewing the totality of the evidence, I conclude that there is insufficient evidence that (1) the Appellant had health insurance meeting MCC standards during their tax penalty period or (2) that the Appellant suffered a hardship such that they could not have afforded to purchase private insurance meeting MCC standards during this period. As a result, I uphold the Appellant's tax penalty. See G.L. c. 111M, § 2.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

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: PA21-2733

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 27, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2021. The Appellant appeared at the hearing, which was held by telephone on April 12, 2024 and directly after a hearing on the Appellant's appeal of a tax penalty for 2020 (PA 20-1280). 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (14 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on April 12, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 52 in January 2021. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2021. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$38,739. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2021. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal form.
7. The Appellant submitted a five-page handwritten letter with their Statement of Grounds for Appeal form in which they stated in relevant part that insurance through their employer would have cost \$410 per month; that their weekly take-home pay was \$500 to \$800; that they paid \$550 per month for their car and \$525 per month for rent.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction 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 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. The Appellant's AGI of \$38,739 was more than 300% of the Federal Poverty Level, which was \$38,280 for a single person in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$38,739, could have afforded to pay \$240 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2021 AGI was between \$38,281 and \$44,660 could have spent 7.45% of their earnings on health insurance; 7.45% of \$38,739 is \$2,886, and one-twelfth of \$2,886 is \$240.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan available on the private market to the Appellant, a single person age 51 living in Plymouth County in January 2021, cost \$390 per month.
12. The Appellant testified that in 2021, as in 2020, they worked as a home health aide on a per diem basis.
13. The Appellant testified that their employer offered health insurance in 2021 and that it would have cost them \$410 per month, which the Appellant testified they could not have afforded.
14. The Appellant testified that they did not receive unemployment compensation in 2021.

15. The Appellant testified that they estimated that their monthly expenses in 2021 were the same as those in 2020. The Appellant testified at their hearing on their 2020 tax penalty that those monthly expenses included: \$600 for housing, which included \$525 in rent for a room, plus \$75 for utilities; \$500 for a car payment; \$368 for gas, based on an estimate of \$85 per week; \$108 for car insurance, based on an estimate of \$1300 per year; \$47 for oil changes, based on an estimate of a \$65 oil change every six weeks; \$52 for a phone; \$867 for food, based on an estimate of \$200 per week; and \$200 for supplements for arthritis. These monthly expenses total \$2,742 per month, or \$32,904 per year.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through a government-subsidized program, or through the private market. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that the health insurance offered by their employer would have cost \$410 per month. Finding of Fact No. 13. According to Table 3 of the Schedule HC, the Appellant could only have afforded to pay \$240 per month for health insurance,

so their employer-sponsored health insurance would not have been affordable to them. Finding of Fact No. 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government subsidized program because the Appellant's AGI was greater than 300% of the FPL. Finding of Fact No. 9.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. Again, according to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$240 per month for health insurance. Finding of Fact No. 10. However, according to Table 4 of the Schedule HC, the least expensive plan meeting MCC standards that was available to the Appellant on the private market cost \$390 per month and therefore was not affordable to the Appellant. Finding of Fact No. 11.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant did not have access to affordable health insurance meeting MCC standards through employment, a government-subsidized program, or the private market. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2021. 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 2021.

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: PA22-1327

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: February 9, 2024
Decision Date: April 8, 2024

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 9, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open until March 1, 2024 so that Appellant could submit further documents. Appellant did not submit further documents and the hearing is now closed.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Statement of Grounds and supporting documents, dated May 19, 2023
- Exhibit 3: Correspondence from Health Connector, dated January 4, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 57 years old in 2022 and resided in Middlesex County (Exhibit 1).
2. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2022 of \$58,799 (Exhibit 1).
4. Appellant worked two part-time jobs in 2022 (Testimony of Appellant).
5. One of Appellant's offered employer sponsored health insurance after a waiting period (Testimony of Appellant).
6. Appellant was told that the employer sponsored health insurance would start in April 2023 (Exhibit 1 and Testimony of Appellant).
7. Appellant's employer sponsored health insurance began in September 2023 (Exhibit 1 and Testimony of Appellant).
8. Appellant was recovering from difficult life circumstances and struggled financially in 2022 (Testimony of Appellant).
9. Appellant lived with a family member who helped with expenses (Testimony of Appellant).

10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

11. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents claimed with an adjusted gross income of \$58,799 could afford to pay \$391 per month for private insurance. According to Table 4, Appellant, who was 57 years old and lived in Middlesex County could have purchased private insurance for a cost of \$437 per month.

12. Private insurance was not considered affordable for Appellant in 2022 (Schedule HC for 2022).

13. Appellant, earning more than \$38,640 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).

14. Appellant did not have health insurance for eight months of 2022 (Exhibit 1).

15. Appellant has been assessed a penalty for five months for 2022 (Exhibit 1).

16. Appellant filed a hardship Appeal on May 19, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, 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 five 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 See 956 CMR 6.

Appellant was not considered able to afford private health insurance and Appellant was not eligible for subsidized insurance. I find that affordable health insurance was not available to Appellant during January through August 2022. See Schedule HC for 2022, 956 CMR 6, Exhibits 1, 2, and Testimony of Appellant, which I find to be credible

I find the penalty assessed against Appellant for 2022 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 2022 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 2022.

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: PA221329

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: February 9, 2024
Decision Date: April 5, 2024

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 9, 2024. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated May 17, 2023
- Exhibit 3: Correspondence from Health Connector dated January 4, 2024

The record shows, and I so find:

1. Appellant was 57 years old in 2022 (Exhibit 1).
2. Appellant filed a part year Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant moved to Middlesex County Massachusetts for a job in February 2022 (Exhibit 1 and Testimony of Appellant).
4. Appellant lost the job in April 2022 (Testimony of Appellant).
5. Appellant struggled to find a new job (Testimony of Appellant).
6. Appellant struggled to pay for rent, utilities and food in 2022 (Testimony of Appellant).
7. Appellant had an adjusted gross income of \$54,560 for 2022 (Testimony of Appellant and Exhibit 1).
8. Most of Appellant's income in 2022 was from a withdrawal from Appellant's 401(k) (Testimony of Appellant).
9. Appellant began a new job in December 2022 and began employer sponsored health insurance (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents, with an adjusted gross income of \$54,560 could afford to pay \$364 per month for private insurance. According to Table 4,

Appellant, who was 57 years old and lived in Middlesex County could have purchased private insurance for a cost of \$435 per month.

12. Private insurance was not considered affordable for Appellant in 2022 (Schedule HC for 2022).
13. Appellant, earning more than \$38,640 would not have been income eligible for government subsidized health insurance (Schedule HC for 2022).
14. Appellant has been assessed a penalty for eight months for 2022 (Exhibit 1).
15. Appellant filed an appeal on May 17, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, 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.

Appellant has been assessed a tax penalty for eight 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. See 956 CMR 6.

Private health insurance was not considered affordable for Appellant in 2022. Appellant was not income eligible for subsidized health insurance in 2022. See Schedule HC for 2022, Exhibits 1, 2 and Testimony of Appellant, which I find to be credible. I find that affordable health insurance was not available to Appellant in 2022.

I find the penalty assessed against Appellant for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 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 2022.

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: PA22-1332

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: February 9, 2024
Decision Date: April 26, 2024

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 9, 2024. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Statement of Grounds and supporting documents received in May 2023
- Exhibit 3: Correspondence from Health Connector, dated January 4, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 49 years old in 2022 and resided in Norfolk County (Exhibit 1).
2. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2022 of \$31,800 (Exhibit 1).
4. Appellant lost Appellant's job in 2022 when the place where Appellant worked went out of business (Testimony of Appellant).
5. Appellant struggled to pay for rent, utilities, food and other necessary expenses in 2022 (Testimony of Appellant).
6. Appellant was covered by government subsidized health insurance at the time of the hearing (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

8. According to Table 3 of Schedule HC for 2022 a person filing as single with no dependents claimed with an adjusted gross income of \$31,800 could afford to pay \$111 per month for private insurance. According to Table 4, Appellant, who was 49 years old and lived in Norfolk County could have purchased private insurance for a cost of \$364 per month.
9. Private insurance was not considered affordable for Appellant in 2022 (Schedule HC for 2022).
10. Appellant, earning less than \$38,640 would have been income eligible for government subsidized health insurance (Schedule HC for 2022).
11. Appellant did not have health insurance for twelve months of 2022 (Exhibit 1 and Testimony of Appellant).
12. Appellant has been assessed a penalty for twelve months for 2022 (Exhibit 1).
13. Appellant filed a hardship Appeal in May 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, 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 See 956 CMR 6. In 2022, Appellant was eligible for government subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellant struggled financially in 2022. Appellant lost employment and struggled to pay for rent, utilities, food and other necessary expenses. Considering Appellant’s circumstances in 2022, I find that for 2022, Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2022, 956 CMR 6.08 (1)(c), Exhibits 1, 2, and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2022 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 2022 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 2022.

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: PA22-1485

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: March 12, 2024

Decision Date: April 22, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 12, 2024. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: Form 1095-C for 2022 (5 page).
- Exhibit 3: Appellant's Schedule HC for 2022 (4 pages).
- Exhibit 4: Email from Appellant to Health Connector, dated September 20, 2023 (1 page).
- Exhibit 5: Notice of March 12, 2024 hearing (2 pages).
- Exhibit 6: Open record request to appellant, dated March 13, 2024 (3 pages).
- Exhibit 7: Appellant's response to open record request (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 33 in September 2022, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant lived in Worcester County in 2022. (Exhibit 1).

3. The Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$52,483. (Exhibit 1).
4. According to the Appellant's Schedule HC extract, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a twelve-month tax penalty for 2022. (Exhibit 1).
5. The Appellant did not submit a statement of grounds in connection with their appeal, and their appeal was dismissed on September 18, 2023. (Exhibit 1).
6. The Appellant sent an email to the Health Connector on September 20, 2023 asking that the dismissal of their appeal be vacated and stating that they had health insurance "all of 2022-2023." (Exhibit 4).
7. The Appellant submitted a federal form 1095-C with their appeal that showed they had health insurance throughout 2022 for which they paid \$143.12 per month. (Exhibit 2). The Appellant also submitted a copy of their Schedule HC for 2022. (Exhibit 3).
8. On September 20, 2023, the Health Connector approved the Appellant's request to vacate the dismissal of their appeal. (Exhibit 1).
9. A hearing on the Appellant's appeal took place telephonically on March 12, 2024. (Exhibit 5). The Appellant appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
11. The Appellant's AGI of \$52,483 was greater than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as single person with no dependents and claimed an adjusted gross income of \$52,483, could have afforded to pay \$349 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$52,483 is \$4198 and one-twelfth of \$4198 is \$349.
13. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a single person with no

dependents living in Worcester County and who was 32 in January 2022 could have purchased cost \$290 per month.

14. The Appellant testified that in 2022, they worked as a medical resident at a Massachusetts hospital and that they had insurance throughout 2022.
15. I left the record open for the Appellant to provide a copy of their Form MA 1099-HC for 2022. (Exhibit 6).
16. In response to my open record request, the Appellant furnished a Form MA 1099-HC that stated that the Appellant had health insurance meeting Massachusetts' minimum creditable coverage requirements for all of 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

The Appellant testified that they had health insurance throughout 2022, and in response to my open record request, they submitted a Form MA 1099-HC showing that they had health insurance meeting Massachusetts' minimum creditable coverage requirements for all of 2022. Findings of Fact Nos. 14-16. As a result, I conclude that the Appellant complied with Massachusetts' individual mandate and that their twelve-month penalty should be waived in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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: PA22-1529

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 23, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on April 12, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: The Statement of Grounds for Appeal and supporting documentation (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on April 12, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 30 in February 2022. (Exhibit 1).
3. The Appellant lived in Worcester County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$46,368. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. The Appellant submitted with their Statement of Grounds for Appeal a letter in which they stated that their girlfriend had a high-risk pregnancy in 2022, which resulted in the Appellant having to pay solely for rent (\$1,000), a car payment (\$532.63), utilities, and food. The Appellant further stated in the letter that they did not keep records of these expenses because they had been a Florida resident for most of their life and were not aware of the Massachusetts requirement to have health insurance and "did not know that there was an option for health connector, to give me a more affordable option." (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. The Appellant's AGI of \$46,368 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$46,368, could have afforded to pay \$293 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$45,081 and \$51,520 could have spent 7.6% of their earnings on health insurance; 7.6% of \$46,368 is \$3,523, and one-twelfth of \$3,523 is \$293.
11. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 29 living in Worcester County in January 2022, cost \$277 per month.
12. The Appellant testified that they were offered health insurance through their employer in 2022 but that they were having financial difficulties and could not afford it. The Appellant testified that they believe this health insurance would have cost roughly \$60 to \$79 per week.

13. The Appellant testified that their fiancé learned that she was pregnant in December 2021. The Appellant testified that their fiancé, with whom they lived, had a difficult pregnancy, as she had gestational diabetes.
14. The Appellant testified that their fiancé's gestational diabetes got worse as the pregnancy progressed and that she had to take an increasing amount of time off from work every month.
15. The Appellant testified that as a result of their fiancé's difficult pregnancy, the Appellant took on the financial burdens for both of them around May 2022.
16. The Appellant testified that their fiancé gave birth to a baby boy on August 28, 2022. The Appellant testified that they took Paid Family and Medical Leave ("PFML") from August 26 to September 26, 2022. The Appellant testified that except for the time when they were on PFML, they worked consistently at the same job in 2022.
17. The Appellant testified that their fiancé worked scattered hours from May to the beginning of August 2022 and then took PFML from August 2022 to January 2023.
18. The Appellant testified that prior to their son's birth, they estimated they had the following monthly expenses in 2022: \$1000 for rent; \$450 for utilities (gas and electric); \$70 for Internet; \$532.63 for car payment; \$130 for car insurance; \$260 for gas (based on \$60 per week); \$800 for food; \$25 for cellphone; \$35 for household supplies. These expenses total \$3302.63. The Appellant testified that after their son was born, they spent approximately an additional \$130 per month on diapers and wipes (based on \$30 per week).
19. The Appellant testified that they shared the monthly expenses with their fiancé, except for food, until approximately May, at which point the Appellant began paying all the expenses. The Appellant testified that their fiancé earned less money than they did, so they paid more than half of the expenses even prior to May.
20. The Appellant testified that their fiancé declared their son on her 2022 tax returns.
21. The Appellant testified that they currently have health insurance through their employer, for which they are paying approximately \$45-50 per week. The Appellant testified that the health insurance offered by their employer is less expensive in 2024 than it was in 2022.
22. The Appellant testified that they and their fiancé and child left their apartment and moved in with their fiancé's mother in 2023 in order to stabilize their financial situation. The Appellant testified that they and their fiancé both had credit card bills with which they could not keep up but that they are finally catching up now.
23. The Appellant testified that throughout 2022, they paid \$100 per month for a Walmart credit card, \$37 per month for an Amazon credit card, and \$400 per month for a Bank of America credit

card. The Appellant testified that some of the charges on the Bank of America credit card would have been for groceries.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI exceeded 300% of the FPL. Finding of Fact No. 9.

Second, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$293 per month for insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased health insurance meeting MCC standards on the private market for \$277 per month. Findings of Fact Nos. 10 and 11.

Third, I conclude that the record is inconclusive as to whether the Appellant had access to affordable health insurance meeting MCC standards through employment. The Appellant testified that they could have obtained health insurance through employment and that they believed the employer-sponsored insurance would have cost \$60-\$79 per week. Finding of Fact No. 12. Insurance that costs \$60 per week costs \$260 per month and theoretically would have been affordable to the Appellant, given that Table 3 of Schedule HC shows that the Appellant could have afforded to pay \$293 per month for insurance. Finding of Fact No. 10. Insurance that cost \$79 per week costs \$342 per month and would not have been affordable to the Appellant. Finding of Fact No. 10.

I find that although the Appellant theoretically could have afforded health insurance throughout 2022, they suffered a hardship such that health insurance would not have actually been affordable to them in the May to December 2022 period. The Appellant credibly testified that from May to December 2022, they were paying all of the expenses for the Appellant, their fiancé, and their baby. Finding of Fact No. 19. The Appellant testified that their essential monthly expenses totaled \$3302.63 prior to the birth of their son and \$3432.63 after his birth (with the added expenses of \$130 per month for diapers and wipes). Finding of Fact No. 18. I find that the Appellant's basic expenses during this period were such that if the Appellant had purchased health insurance meeting MCC standards, whether on the private market or through their employer, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

Whether the Appellant could have actually afforded health insurance in the January to April 2022 period is a closer question. The Appellant testified that they shared monthly expenses with their fiancé in the January to April 2022 period, except for food, which the Appellant credibly testified they paid for entirely and totaled \$800 per month. Finding of Fact No. 19. The Appellant also testified that they paid for more than half of the shared expenses during this period because their fiancé earned less money than they did. Finding of Fact No. 19. Although the Appellant had greater disposable income during the January to April 2022 period than later in the year, I find that they nonetheless suffered a hardship, such that health insurance meeting MCC standards was not actually affordable to them. According to Table 3 of the Schedule HC, the Appellant could theoretically have afforded to pay \$293 per month for insurance. Finding of Fact No. 10. Because the least expensive plan on the private market cost \$277 per month, and the cost of employer-sponsored insurance might have been \$260 per month, health insurance was theoretically affordable to the Appellant, but not by much.¹ Findings of Fact Nos. 11 and 12. I find that the Appellant's assumption of all of the food expenses for them and their fiancé during the January to April 2022 period (which seems reasonable, given the Appellant's fiancé's gestational diabetes) lowered the Appellant's disposable income such that, if they had purchased health insurance, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

¹ As noted earlier, the Appellant did not know the precise cost of employer-sponsored 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 2022.

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: PA22-1531

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 26, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on April 12, 2024. 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: Statement of Grounds for Appeal (4 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on April 12, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 20 in July 2022. (Exhibit 1).
3. The Appellant lived in Hampden County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$37,421. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal form: "Other. During 2022 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2). The Appellant also handwrote on the form: "I simply didn't feel the need to have it mainly due to the out of pocket cost."
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$37,421 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$37,421, could have afforded to pay \$155 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$32,201 and \$38,640 could have spent 5% of their earnings on health insurance; 5% of \$37,421 is \$1,871, and one-twelfth of \$1,871 is \$155.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 19 living in Hampden County in January 2022, cost \$295 per month.
11. The Appellant testified that they were unaware of the legal requirement in Massachusetts to obtain health insurance and that they did not know of the possibility of obtaining subsidized health insurance.
12. The Appellant testified that they were self-employed throughout 2022 and that all of their income in 2022 was from self-employment.
13. The Appellant testified that their income fluctuated in 2022 and that in some months they made money, but in other months they lost money.

14. The Appellant testified that they lived with their parents in 2022 and that they estimated that they had the following monthly expenses: \$1000-2000 per month for rent payments to their parents, which the Appellant testified they made for half the year; \$400-450 for gas and car insurance; \$70 for cellphone; \$200-300 for food; \$167 for clothing (based on an estimate of \$2000 per year).
15. The Appellant testified that now that they know that it is mandatory to have health insurance in Massachusetts, they are working on obtaining it.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through a government-subsidized program, through the private market, or through employment. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they were self-employed throughout the year. Finding of Fact No. 12. Thus, the Appellant did not have an employer that offered health insurance.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$155 per month for insurance, but according to Table 4 of the Schedule HC, the least expensive plan meeting MCC standards that was available to the Appellant on the private market cost \$295 per month and therefore was not affordable to the Appellant. Findings of Fact Nos. 9 and 10.

Third, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 8. However, I find that this insurance was not actually affordable to the Appellant because the Appellant credibly testified that their income fluctuated in 2022 and that in some months they made nothing. Finding of Fact No. 13. Thus, I conclude that the Appellant suffered a hardship and that if they had purchased health insurance in 2022, even on a subsidized basis, there are some months in which they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities. I further find that the Appellant's lack of knowledge of the possibility of subsidized health insurance effectively blocked them from obtaining it. Finding of Fact No. 11.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e) and (3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

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: PA22-1536

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 27, 2024

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 Massachusetts General Laws Chapter 111M, Section 4 and 956 CMR 6.07.

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone on April 12, 2024 and directly after hearings on the Appellant's appeal of tax penalties for 2020 (PA 20-1280) and 2021 (PA 21-2733). 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 testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (6 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on April 12, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 53 in January 2022. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2022. (Exhibit 1).

4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$31,488. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal form.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction 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 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. The Appellant's AGI of \$31,488 was less than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$31,488, could have afforded to pay \$110 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was between \$25,761 and \$32,200 could have spent 4.2% of their earnings on health insurance; 4.2% of \$31,488 is \$1,322, and one-twelfth of \$1,322 is \$110.
10. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 52 living in Plymouth County in January 2022, cost \$422 per month.
11. The Appellant testified that in 2022, as in 2020 and 2021, they worked as home health aide on a per diem basis and that their work hours and income fluctuated.
12. The Appellant testified that their employer offered health insurance that cost approximately \$410, which the Appellant testified that they could not have afforded.
13. The Appellant testified that their basic monthly expenses in 2022 were the same as in 2020 and 2021 and included: \$600 for housing, which included \$525 in rent for a room, plus \$75 for utilities; \$500 for a car payment; \$368 for gas, based on an estimate of \$85 per week; \$108 for car insurance, based on an estimate of \$1300 per year; \$47 for oil changes, based on an estimate of a \$65 oil change every six weeks; \$52 for a phone; \$867 for food and toiletries, based on an estimate of \$200 per week; and \$200 for supplements for arthritis. These monthly expenses total \$2,742 per month, or \$32,904 per year.

14. The Appellant testified that in addition to these monthly expenses, they had to pay approximately \$180 to \$200 for new car tires and \$540 for a new green card.
15. The Appellant also testified that in 2022, they had to assist their daughter with rent and help pay for their ex-husband's funeral and that they borrowed approximately \$8,000 from their mother to pay for expenses.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. 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 health 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 ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

If these requirements are not met, a tax penalty is assessed for each of the months that the individual did not have health insurance as required by the individual mandate. There is, however, 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, § 2(b) and Administrative Information Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00 (clarifying that for purposes of penalty calculation, taxpayers will not be subject to penalty if they had lapses in coverage consisting of three or fewer consecutive calendar months). The Connector's regulations also provide for a waiver of the tax penalty in cases of hardship. See 956 CMR 6.07-08.

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance that met MCC standards was available to the Appellant through employment, through the private market, or through a government-subsidized program. If affordable insurance was available, it must be determined whether such insurance was not in fact affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08. Each of these issues is addressed below.

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that the health insurance offered by their employer would have cost \$410 per month. Finding of Fact No. 12. According to Table 3 of the Schedule HC, the Appellant could only have afforded to pay \$110 per month for health insurance, so their employer-sponsored health insurance would not have been affordable to them. Finding of Fact No. 9.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. Again, according to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$110 per month for health insurance. Finding of Fact No. 9. However, according to Table 4 of the Schedule HC, the least expensive plan meeting MCC standards that was available to the Appellant on the private market cost \$422 per month and therefore was not affordable to the Appellant. Finding of Fact No. 10.

Third, I conclude that the Appellant theoretically had access to affordable health insurance meeting MCC standards through a government subsidized program because the Appellant's AGI was less than 300% of the FPL. Finding of Fact No. 8. However, I find that in reality, the Appellant suffered a hardship such that they could not afford to purchase health insurance, even on a subsidized basis. The Appellant provided credible testimony about their basic monthly expenses, and those expenses totaled \$32,904 for the year, while the Appellant's AGI was \$31,488. Findings of Fact Nos. 4 and 13. In addition, the Appellant credibly testified that their work hours and income fluctuated in 2022. Finding of Fact No. 11. Based on the Appellant's credible testimony, I find that if the Appellant purchased health insurance, even on a subsidized basis, they likely would have experienced a serious deprivation of food, shelter, clothing or other basic necessities, particularly in those months in which their income was low.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's twelve-month tax penalty in its entirety because the Appellant suffered a hardship, such that they could not have afforded to purchase health insurance meeting MCC standards, even through a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 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 2022. 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 2022.

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: PA22-1543

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 12, 2024. 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 11, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2022.
- Exhibit 3: Appellant letter requesting that prior dismissal be vacated to allow the Appellant to appeal dated January 17, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 29 in April 2022 filed their 2022 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$40,516 (Exhibit 2).
4. The Appellant did not have health insurance for the period of July through December in 2022 and consequently has been assessed a three-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in January 2024 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$40,516 could afford to pay \$252 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Middlesex County, could have purchased private insurance for \$277 per month for a single plan (Schedule HC for 2022). Private insurance was not affordable for the Appellant in tax year 2022.
8. The Appellant would not have been financially eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$40,516 was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that they had employer sponsored health insurance for tax year 2022 and enrolled during the period of January through June. The Appellant said that they were not sure of the cost but think it was approximately \$150 per month. This insurance was affordable for the Appellant in tax year 2022 because the premium cost of \$150 was less than the \$252 deemed affordable under Table 3 of Schedule HC for 2022 (Schedule HC 2022 and Appellant Testimony).
10. The Appellant explained that they are a non-citizen who came to this country in August 2021 and was living with an aunt. The Appellant indicated that they borrowed money to move to the US. The Appellant was able to pay for health insurance for the first half of 2022 but then their situation changed. The Appellant said that their fiancée came to this country in June 2022 but was unable to work due to their immigration status. The Appellant said that they moved from their aunt's home to their own apartment and supported themselves and their fiancée for the period of June through December with only one income. The Appellant said that they stopped paying for health insurance because they needed the money to pay for living expenses for their household of two (Exhibit 3 and Appellant Testimony).
11. The Appellant's monthly living expenses of \$2,576 included: rent and hot water- \$1,600 ; electricity- \$40; car insurance- \$200; gasoline-\$108; food-\$563 and telephone-\$65. The Appellant said that they struggled to meet their expenses but was able to reenroll in health insurance in January 2023 once their financial situation improved. 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 filed their 2022 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for the period of July through December in tax year 2022 and has been assessed a three-month penalty. The Appellant appealed the penalty in January 2024 citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$40,516 could afford to pay \$252 per month for health insurance. According to Table 4, the Appellant, age 29, living in Middlesex County, could have purchased a private insurance plan for \$277 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant testified that they had employer sponsored health insurance for the period of January through July and that they were unsure of the cost but estimated that it was \$150 per month. This is less than the \$252 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2022.

The Appellant would not have been eligible for ConnectorCare given their access to affordable employer sponsored insurance. In addition, the Appellant's income was greater than 300% of the federal poverty level which was \$38,640 for their tax household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they are a non citizen who came to the United States in August 2021. The Appellant explained that they borrowed money from relatives to move here and was able to live with an aunt until June 2022. The Appellant said that in June 2022 their non citizen fiancée came to live with them but was unable to work due to their immigration status. The Appellant said that they moved from their Aunt's home into their own apartment and was paying for all monthly living expenses for their household of two with one income. The Appellant testified to substantial monthly living expenses said that they could not afford to meet their living expenses and continue to pay for health insurance for the period of July through December in tax year 2022. The Appellant was able to reenroll in health insurance in January 2023 once their living situation stabilized.

Under these circumstances the Appellant has demonstrated that purchasing health insurance for the period of July through December would have caused the Appellant significant financial hardship in tax year 2022. The Appellant's three-month penalty is waived in full. 956 CMR 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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: ____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 2021.

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: PA22-1544

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 12, 2024. 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 11, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2022.
- Exhibit 3: Appellant letter requesting that prior dismissal be vacated to allow the Appellant to appeal dated October 20, 2023.
- Exhibit 4: Appellant's Email in support of the appeal dated November 18, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 58 in 2022 filed their 2022 Federal Income Tax return as a single person with one dependent claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$51,661 (Exhibit 2).
4. The Appellant did not have health insurance for the period of January through October in 2022 and consequently has been assessed a seven-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in October, 2023 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with one dependent claimed, with an annual adjusted gross income of \$51,661 could afford to pay \$319 per month for health insurance. In accordance with Table 4, the Appellant, age 58, living in Middlesex County, could have purchased private insurance for \$1,031 per month for a family plan (Schedule HC for 2022). Private insurance was not affordable for the Appellant in tax year 2022.
8. The Appellant would have been financially eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$51,661 was less than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that they were employed as an independent contractor for the period of January through October in tax year 2022 and health insurance was not offered by their employer based on their employment status. The Appellant explained that they were hired full time toward the end of the year and enrolled in employer sponsored health insurance starting in November 2022 when they became eligible (Exhibit 2 and Appellant Testimony).
10. The Appellant testified that they live with and care for an adult disabled child who is unable to work. The Appellant said that while a contractor their income was not always certain and with their high living and care expenses for their household of two, the Appellant was not able to afford health insurance until they were hired as a permanent employee. The Appellant was not aware of the ConnectorCare program in tax year 2022 (Exhibits 3, 4 and Appellant Testimony).
11. The Appellant's monthly living expenses of \$3,515 included: mortgage with taxes and insurance-\$1,334 ; electricity-\$325; oil heat-\$80; telephone and internet-\$220; car insurance- \$60; gasoline-\$87; car repairs-\$167; food-\$1,192 and clothing-\$50. The Appellant explained that they drive an older car so that they do not have a car payment, but the car required about \$2,000 in maintenance fees in tax year 2022. 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 filed their 2022 tax return as a single person with one dependent claimed. The Appellant did not have health insurance for the period of January through October in tax year 2022 and has been assessed a seven-month penalty. The Appellant appealed the penalty in October 2023 citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a single person with one dependent claimed with an adjusted gross income of \$51,661 could afford to pay \$319 per month for health insurance. According to Table 4, the Appellant, age 58, living in Middlesex County, could have purchased a private insurance plan for \$1,031 month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant was an independent contractor for the period of January through October and did not have access to employer sponsored health insurance during these months of tax year 2022. The Appellant would have been eligible for ConnectorCare coverage based upon the household's income that was less than 300% of the federal poverty level which was \$52,260 for their household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they live with their adult disabled child who cannot work. The Appellant said that they are responsible for the full-time care of their dependent in addition to their work responsibilities. The Appellant said that once they were able to become a full-time employee, they enrolled in their employer sponsored health insurance starting in November 2022. The Appellant testified to significant monthly expenses of approximately \$3,515 and indicated that it was difficult to meet these expenses and care for their dependent as a contract employee.

Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship in tax year 2022. The Appellant's seven-month penalty is waived in full. 956 CMR 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2021.

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: PA22-1546

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: April 12, 2024

Decision Date: April 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on April 12, 2024. 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 11, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2022.
- Exhibit 3: Appellant letter dated January 3, 2024 to request that a prior dismissal be vacated to allow the Appellant to appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 58 in July 2022 filed their 2022 Federal Income Tax return as a married person filing separately with no dependents (Exhibit 2).
2. The Appellant lived in Berkshire County, MA in 2022 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$70,913 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2022 (Exhibits 2, 3 and Appellant testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022. The Appellant filed an appeal of the assessment in January 2024 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 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 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as a married person filing separately with no dependents claimed, with an annual adjusted gross income of \$70,913 could afford to pay \$473 per month for health insurance. In accordance with Table 4, the Appellant age 58, living in Berkshire County, could have purchased private insurance for \$466 per month for a plan (Schedule HC for 2022). Private insurance was affordable for the Appellant in 2022.
8. The Appellant would not have been financially eligible for ConnectorCare coverage in 2022 because the Appellant's income of \$70,913 was greater than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. When asked, the Appellant testified that their employer offered health insurance at a cost of \$158 every two weeks. The monthly premium of \$342.38 is less than the \$473 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2022 (Schedule HC for 2022 and Appellant Testimony).
10. The Appellant testified that prior to tax year 2022 they received free healthcare through a free clinic program in their area. The Appellant said that although they were not financially eligible for the program, they were allowed to continue participating in 2022. The Appellant said that for the period of January through September they were paid \$26.25 per hour for 40 hours. This was increased to \$33.50 per hour in October of 2022. The Appellant said that at the beginning of the year health insurance did not seem affordable and since the free clinic was providing services they did not enroll (Exhibit 3 and Appellant Testimony).
11. The Appellant's testimony regarding their income is not consistent with the Appellant's Adjusted Gross income figure of \$70,913. At \$26.25 per hour for 40 hours the Appellant's weekly income would be \$1,050 or \$4,550 monthly (\$40,950 for nine months). For the period of October through December, at \$33.50 per hour for 40 hours the Appellant's weekly income would be \$1,340 weekly, or \$5,806 monthly (\$17,418 for three months). The Appellant testified to income of \$58,368 but their Adjusted Gross Income figure was \$70,913. The Appellant's testimony was not supported by the evidence in the record and is therefore not credible (Exhibit 2 and Appellant Testimony).
12. The Appellant testified that their monthly living expenses totaled \$2,200 in tax year 2022. The Appellant said they got behind in their electric bill but did not receive a shut off notice (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 2022 income tax return as a married person filing separately with no dependents. The Appellant did not have health insurance for any months of tax year 2022 and consequently has been assessed a twelve-month penalty. The Appellant filed an appeal of the assessment by letter dated January 3, 2024.

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 2022 the Appellant filing the Federal tax return as a married filing separately individual with no dependents claimed with an adjusted gross income of \$70,913 could afford to pay \$473 per month for health insurance. According to Table 4, the Appellant 58, living in Berkshire County, could have purchased a private insurance plan for \$466 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant testified that their employer offered health insurance at a cost of \$158 biweekly. The monthly premium of \$342.38 is less than the \$473 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2022. Affordable employer sponsored health insurance was available to the Appellant in tax year 2022.

The Appellant was not financially eligible for ConnectorCare coverage based upon the Appellants’ income of \$70,913 that was greater than 300% of the federal poverty level which was \$38,640 for their household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2022, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that prior to tax year 2022 they received free healthcare services from a clinic in their area. The Appellant reported that even though they were not financially eligible for these services, the clinic allowed them to continue receiving free healthcare services throughout tax year 2022. The Appellant testified that their income was lower in the first nine months of the year, and they could not afford insurance. The Appellant’s testimony regarding their monthly income was not consistent with what was reported on their 1099 HC-2022. The Appellant testified to monthly living expenses of \$2,200. Given the Appellant’s income and the fact that the Appellant had access to private insurance at a cost of \$466 and employer sponsored insurance at a cost of \$342, the Appellant has failed to demonstrate that purchasing health insurance would have resulted in extreme financial hardship 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld. See 956 CMR 6.08.

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 2022 for the amount equal to one half of the lowest cost health insurance plan available to

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit