

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA51

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 26, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 26, 2018.

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 (7-3-18) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (with letter and documents) (5-11-18) (8 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 38 during 2017, was from Suffolk County.
2. Appellant did have health insurance during 2017 from the United Kingdom. Appellant was in the United States with an L1 Visa for January through March 2017.
3. Appellant also had health insurance through an employer for January and February 2017.
4. Appellant lost the job at the end of February 2017. Appellant was then in the United States under a Tourist on Visa Waiver program for April 27 until July 20, 2017.
5. Appellant was married in July 2017 and was awaiting Permanent Residence status. During that time she was not lawfully present in the United States and could not qualify for health insurance through the Health Connector for those months.

6. Appellant obtained health insurance through her husband's employer as of January 2018, and still has it.

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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply based upon a combination of factors. Appellant was in the United States under an L1 Visa for January through March 2017, and had health insurance through an employer. Appellant was in the United States on a Tourist Visa Waiver program from April 2017 until July 21, 2017, and she had health insurance through the United Kingdom. Appellant was married on July 21, 2017, and was awaiting Permanent Residence status and did not qualify for health insurance in Massachusetts during that time. Appellant did obtain her Permanent Residence status and obtained health insurance through her husband's employer as of January 2018, and continues to have it. Based on these combination of factors, the penalty is waived.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA52

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 26, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 26, 2018. The record was left open to allow Appellant to submit additional information about monthly expenses.

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 (7-3-18) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (with letter) (5-6-18) (5 pages); and
- Exhibit 4: Additional information about expenses submitted pursuant to open record (8-7-18) (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant Husband, age 57, and Appellant Wife, age 55 during 2017, were from Worcester County.
2. Appellants did have health insurance during 2017 for January, and for August through December.
3. Appellant Husband lost his job and the insurance in January 2017, and did not obtain new employment until August 2017, when Appellants again obtained insurance through Husband's employer. During the months Appellants did not have health insurance, Appellant Husband was on unemployment, and Appellants were unsure how long it would take for him to obtain new

employment. The income during those months was significantly reduced from both prior and again when he obtained new employment.

4. Appellants' monthly expenses were significant, including for mortgage, utilities, vehicles, clothes, etc.
5. If Appellants' entire year AGI is used, Appellants could afford health insurance based on the tables in Schedule HC. If the income during the months when there was no insurance is used, Appellants could not afford health insurance based on those tables.
6. The expenses for food, shelter, clothing and transportation used all the income during the months when Appellants did not have health insurance.
7. Appellants obtained health insurance through the husband's employer as of August 2017, and still have it.

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.

Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply based upon hardship. Appellants did have health insurance for January 2017, and again for August through December 2017. Appellant Husband lost his job and was on unemployment for February through August, and during those months, paying for health insurance would have caused a serious deprivation of food, shelter, clothing and transportation. Based on these combination of factors, the penalty is waived.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA54

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 26, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 26, 2018.

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 (7-3-18) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (with letter) (5-3-18) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 48 during 2017, was from Worcester County.
2. Appellant did not have health insurance during 2017.
3. Appellant previously had health insurance through his employer, but did not feel he could afford it. His hours were cut significantly.
4. Appellant's monthly expenses for rent, utilities, vehicles, clothes, etc. used most of his income.
5. Appellant could afford health insurance based on the tables in Schedule HC, but could not afford the insurance from the employer based on those tables.
6. The expenses for food, shelter, clothing and transportation used most of the income.
7. Appellant intends to re-enroll in his employer's health insurance during open enrollment in October.

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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply based upon hardship. Appellant did not have health insurance for 2017. Appellant’s hours from his employment were significantly reduced and paying for health insurance would have caused a serious deprivation of food, shelter, clothing and transportation. Based on these combination of factors, the penalty is waived.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA55

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 26, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 26, 2018.

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 (7-3-18) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-4-18) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 28 during 2017, was from Norfolk County.
2. Appellant did not have health insurance during 2017.
3. Appellant has significant student loans.
4. Appellant's monthly expenses for rent, utilities, vehicles, clothes, and the student loans used all of his income.
5. Appellant could afford health insurance based on the tables in Schedule HC.

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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply based upon hardship. Appellant did not have health insurance for 2017. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and transportation. Based on these combination of factors, the penalty is waived.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA172

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 10, 2018

Decision Date: August 2, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 10, 2018.

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

- Exhibit 1: Notice of Hearing (6-11-18) (4 pages);
- Exhibit 2: Information from Schedule HC TY 2017 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (5-10-18) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 28 during 2017, was from Barnstable County.
2. Appellant did have health insurance for the months of January through March of 2017 but did not have health insurance for the remaining months of 2017.
3. Appellant was living with someone during 2017 who stole money from her account which made it difficult to meet her expenses.
4. Appellant ended that living situation and obtained health insurance through the Health Connector again for 2018, and still has it.
5. Appellant could not afford health insurance based upon the tables in Schedule HC.
6. Appellant received a shutoff notice during 2017.
7. Appellant's expenses for food, shelter, clothing and transportation used a substantial portion of

her income.

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 submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply because she had received a shut off notice. In addition, she asserted that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant had health insurance for January through March of 2017, but not for the remaining months of 2017. Appellant could not afford health insurance based on the tables in Schedule HC. Appellant’s expenses for food, shelter, clothing and transportation used a substantial portion of her income, especially due to the fact that money was stolen from her by someone who lived with her. Paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant now has health insurance through the Health Connector.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA1732

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 27, 2018

Decision Date: August 27, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing, which was held by telephone on July 27, 2018. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Appeal Case Information from Schedule HC 2017

Exhibit 2: Statement of Grounds for Appeal 2017 signed and dated by Appellants on May 7, 2018 with letter in support attached

Exhibit 3: Notice of Hearing sent to Appellant dated July 3, 2018 for July 27, 2018 hearing

Exhibit 4: Appellants' Form MA 1099-HC 2017 and Form 1095-B 2017

Exhibit 5: Appellants' shut off notice, service disconnected May 24, 2017 and final notice of termination dated May 17, 2017

Exhibit 6: Appellant's miscellaneous medical bills, 2017

Exhibit 7: Connector Final Appeal Decision dated April 4, 2014 for 2012 Tax Year

Exhibit 8: Connector Final Appeal Decision dated March 30, 2012 for 2010 Tax Year

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2017 Massachusetts tax return jointly as a married couple with no dependents claimed, were both 53 years old in 2017 (Exhibit 1, Testimony of Appellant).
2. Appellants lived in Worcester County in 2017 (Exhibit 1, Testimony of Appellant).
3. Appellants had a Federal adjusted gross income for 2017 of \$36,248 (Exhibit 1 and Testimony of Appellant).
4. One appellant was employed all of 2017 as an office administrator. She was not offered health insurance through her job. The other appellant was self-employed (Testimony of Appellant).

5. The appellant who was self-employed had no health insurance in 2016 and 2017. He obtained coverage as of February 1, 2018 (Testimony of Appellant, Exhibit 1).
6. The other appellant had MassHealth coverage from January through July, 2017. She obtained coverage again as of February 1, 2018 (Exhibit 4, Testimony of Appellant).
7. One appellant has been assessed a tax penalty for all of 2017. The other has been assessed a penalty for two months, November and December. The appellants have appealed this assessment (Exhibits 1, 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
9. According to Table 3 of Schedule HC for 2017, the appellants with no dependents claimed with an adjusted gross income of \$36,248, could afford to pay \$187 per month for health insurance. According to Table 4, Appellants, both 53 years old and living in Worcester County, could have purchased insurance for \$726 per month for a plan for a couple, or for \$363 for an individual plan. Insurance on the individual market would not have been affordable to them (Schedule HC for 2017, Tables 3 and 4, Exhibit 1).
10. According to Table 2 of Schedule HC for 2017, Appellants earning less than \$48,060 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2017, and Exhibit 1).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2017 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in mortgage payments in 2017 (Testimony of Appellant).
13. Appellants had their gas service shut-off in May, 2017 (Testimony of Appellant, Exhibit 5).
14. Appellants had the following monthly expenses for basic necessities in 2017: mortgage- \$1,200; property taxes-\$292; home owner's insurance-\$125; electricity-\$150; gas for heat-\$200; telephone and internet-\$200; food-\$800; clothing-\$200; car insurance-\$200; gas-\$400 (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 2017 should be waived, either in whole or in part.

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

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

One of the appellants had no health insurance in 2017. He has been assessed a twelve-month penalty. The other appellant had insurance from January through July. She has been assessed a two-month penalty since she is entitled to a three-month grace period after she lost her coverage. The appellants have appealed these assessments. 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 appellants through employment, through the individual market, or through a government-sponsored program during the months they were uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellants because Appellants experienced a financial hardship as defined in 956 CMR 6.08.

Appellants had no access to health insurance which met the Commonwealth's standards through employment. One was not offered health insurance through her job; the other was self-employed. See the testimony of the appellant which I find to be credible.

According to Table 3 of Schedule HC for 2017, the appellants with no dependents claimed with an adjusted gross income of \$36,248, could afford to pay \$187 per month for health insurance. According to Table 4, Appellants, both 53 years old and living in Worcester County, could have purchased insurance for \$726 per month for a plan for a couple, or for \$363 for an individual plan. Insurance on the individual market would not have been affordable to them. See Schedule HC for 2017, Tables 3 and 4, Exhibit 1.

Appellants were income-eligible for ConnectorCare coverage. The income limit for a household of two was \$48,060. The appellants earned less than the limit. See Exhibit 1, the testimony of the appellant, and Schedule HC.

Since Appellants had access to affordable insurance which met the minimum creditable coverage standards in 2017, we need to determine if the appellants had a financial hardship such the the cost of purchasing health insurance would have caused them to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellants had the following monthly expenses for basic necessities in 2017: mortgage- \$1,200; property taxes-\$292; home owner's insurance-\$125; electricity-\$150; gas for heat-\$200; telephone and internet-\$200; food-\$800; clothing-\$200; car insurance-\$200; gas-\$400. See the testimony of the appellant which I find to be credible. Appellants had income of about \$3,000 a month. See Exhibit 1. Their expenses for basic necessities amounted to approximately \$3,770 a month. Based upon this, I determine that the cost of purchasing health insurance would have caused the appellants to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08 (1)(e), the appellants had a serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellants.

In addition, the appellants had their gas service shut-off in May, 2017. See Exhibit 5. Pursuant to 956 CMR 6.08 (1)(b), the appellants also had a serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellants.

Appellants' penalties are waived because of financial hardship. I also note that the appellants have had health insurance since February, 2018.

Appellants should note that any waiver granted here is for 2017 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 Appellants be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 14 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 2017.

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: PA17-39

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 24, 2018

Decision Date: August 16, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2018. 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 Appellant's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Notice of Hearing sent to Appellants dated July 3, 2018
- Exhibit 2: Appeal Case Information Sheet from Schedule HC 2017
- Exhibit 3: Statement of Grounds for Appeal 2017 signed by Appellant
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in 2017 and filed a 2017 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Hampden County, MA in 2017 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2017 was \$22,889 (Exhibit 2).
4. During 2017, employer sponsored insurance was available to Appellant at a cost of \$160 per month (Testimony of Appellant).
5. During 2017, Appellant did not sign up for employer sponsored insurance (Testimony of Appellant).

6. Appellant applied for government subsidized health insurance but Appellant was not eligible (Testimony of Appellant).
7. Appellant struggled to pay bills for necessities in 2017 (Exhibit 4 and Testimony of Appellant).
8. Appellant was assessed a penalty for twelve months for 2017 (Exhibit 2).
9. Appellant filed an appeal in May, 2018, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibit 3).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
11. According to Table 3 of Schedule HC for 2017 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$22,889 could afford to pay \$55 per month for health insurance. According to Table 4, Appellant, age 33 and living in Hampden County, could have purchased private insurance for \$249 per month. Private insurance was not affordable for Appellant in 2017.
12. According to Table 3 of Schedule HC for 2017, Appellant also could not afford to purchase the employer sponsored insurance for \$160 per month.
13. According to Table 2 of Schedule HC for 2016, Appellant, earning less than \$35,640 would have met the income eligibility guidelines for government subsidized insurance. However, since employer sponsored health insurance was available and the cost was less than 9.69% of Appellant's Federal Adjusted Gross Income, Appellant would be blocked from enrolling in government subsidized health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2017 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2017, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant before we consider

whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant worked in 2017 and employer sponsored health insurance was available to Appellant at a cost of \$160 per month. According to Table 3 of Schedule HC for 2017, Appellant, who filed taxes as a single person with no dependents could afford to pay \$55 per month for health insurance. The employer sponsored insurance was not affordable. Private insurance would have cost Appellant \$249 per month and also would not be affordable. Government subsidized health insurance was not available to Appellant due to the availability and the cost of the employer sponsored insurance. See Schedule HC for Healthcare, Tables 2, 3 and 4, Exhibits 2, 3 and 4, and Testimony of Appellant, which I find to be credible.

I find that for 2017, the purchase of affordable health insurance that met minimum creditable coverage standards was not available to Appellant. See 956 CR 6.00.

I find that the penalty assessed against Appellant for 2017 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 2017 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 2017.

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: PA17-40

Appeal Decision : Penalty Overturned in Full

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 24, 2018

Decision Date: August 27, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 24, 2018. 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 August 7, 2018 so that Appellant could submit more documents. Appellant submitted documents and they have been marked as Exhibit 6.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2016
- Exhibit 3: Notice of Appeal, dated May 7, 2018
- Exhibit 4: Statement of Appellant in support of the Appeal
- Exhibit 5: Appeal Decision for 2015
- Exhibit 6: Summary documents regarding Appellant's health insurance coverage

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 59 years old in 2017. Appellant filed a Massachusetts 2017 tax return as single with one dependent claimed (Exhibit 2).
2. Appellant resided in Plymouth County, MA in 2017 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2017 of \$35,862 (Exhibit 2).

4. Appellant and Appellant's child were insured through employer sponsored health insurance during 2017 (Testimony of Appellant).
5. Appellant was a long term employee and had been covered by employer sponsored health insurance for about seven years (Testimony of Appellant).
6. Appellant's employer was located out of state (Testimony of Appellant).
7. Appellant's employer only offers one plan for all employees in all states (Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
9. According to Table 3 of Schedule HC for 2017 a person filing as single, with one dependent claimed and with a Federal Adjusted Gross Income of \$35,862 could afford to pay \$185 per month for health insurance. According to Table 4, Appellant, age 59 and living in Plymouth County, could have purchased private insurance for \$441 per month. Private insurance was not affordable for Appellant in 2017.
10. Appellant's employer sponsored health insurance coverage in 2017 offered a broad range of comprehensive medical benefits. There were no caps on total benefits for a particular illness or for a single year. There was an individual deductible of \$800 per year and a family deductible of \$1,600. There was a an out of pocket maximum or \$7,150 for an individual and \$10,500 for a family. These limits meet the Massachusetts standards. However, the plan does not provide maternity care for dependents and therefore does not meet the Massachusetts standards (Exhibit 4 and Testimony of Appellant).
11. Appellant has been assessed a penalty for twelve months for 2017 (Exhibit 2).
12. Appellant filed an Appeal on May 7, 2018, appealing the assessment of the penalty. Appellant claimed that Appellant purchased employer sponsored health insurance that did not meet Massachusetts minimum coverage standards as that is what was offered by the employer and that the insurance Appellant purchased was close to or substantially met the standards (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived.

According to Tables 3 and 4 of Schedule HC for 2017 private insurance was not affordable for Appellant in 2017. During 2017, Appellant was covered by employer sponsored health insurance from Appellant's employer. The issue to be decided is whether the policy met the Massachusetts minimum creditable coverage standards and whether Appellant should be assessed a penalty for the months that Appellant was covered by the employer sponsored plan.

Appellant's employer was located out of state and the employer only offered one plan for employees in all states. Appellant's employer sponsored health insurance coverage in 2017 offered a broad range of comprehensive medical benefits. There were no caps on total benefits for a particular illness or for a single year. There was an individual deductible of \$800 per year and a family deductible of \$1,600. There was an individual out of pocket maximum of \$5,250 and a family out of pocket maximum of \$10,500. These limits meet the Massachusetts standards. However, the plan deviated from the Massachusetts standards because the plan did not provide maternity care for dependents. See Schedule HC and Exhibit 4 and Testimony of Appellant, which I find to be credible.

I find that Appellant did have comprehensive health insurance through the Appellant's employer that substantially met minimum creditable coverage standards. See 956 CMR 6.08 (2)(d)

I find the penalty should be waived in its entirety for 2017.

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 2017 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 2017.

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: PA17-41

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 24, 2018

Decision Date: August 14, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2018. 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 Appellant's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Notice of Hearing sent to Appellants dated July 3, 2018
- Exhibit 2: Appeal Case Information Sheet from Schedule HC 2017
- Exhibit 3: Statement of Grounds for Appeal 2017 signed by Appellant on May 3, 2018
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2017 and filed a 2017 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Middlesex County, MA in 2017 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2017 was \$18,032 (Exhibit 2).
4. During 2017, Appellant was a student and worked at a part-time job (Testimony of Appellant).
5. During 2017, employer sponsored insurance was not available to Appellant (Testimony of Appellant).

6. Appellant had been covered by student health insurance in 2016 (Testimony of Appellant)
7. Appellant thought that Appellant was covered by student health insurance in 2017 (Testimony of Appellant).
8. Appellant learned that Appellant was not covered by health insurance when Appellant made a doctor's appointment in the summer of 2017 (Testimony of Appellant).
9. Appellant applied for government subsidized health insurance after Appellant learned that there was no coverage (Testimony of Appellant).
10. Appellant began coverage under government subsidized health insurance in September 2017 (Testimony of Appellant).
11. Appellant struggled to pay bills for necessities in 2017 (Exhibit 4 and Testimony of Appellant).
12. Appellant was evicted from Appellant's apartment in September 2017 and then struggled to find housing (Exhibit 4 and Testimony of Appellant).
13. Appellant was assessed a penalty for five months for 2017 (Exhibit 2).
14. Appellant filed an appeal on May 3, 2018, claiming that they had received an eviction notice and other issues (Exhibit 3).
15. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
16. According to Table 2 of Schedule HC for 2017, Appellant, earning less than \$35,640, would have met the income eligibility guidelines for government subsidized insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2017 should be waived, either in whole or in part.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2017, 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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant worked part-time and was a student in 2017. Appellant, earning less than \$35,640 would have met the income eligibility requirements for government subsidized insurance. See Schedule HC for 2017 and Testimony of Appellant, which I find to be credible. Since Appellant had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

In 2017, Appellant believed that Appellant was covered by student health insurance. When Appellant learned that there was no coverage, Appellant applied for government subsidized health insurance. Appellant struggled to pay the bills for basic living expenses. Appellant was evicted from Appellant's apartment in September 2017 and then struggled to find housing. See Exhibit 4 and Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1)(a).

I find that the penalty assessed against Appellant for 2017 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 2017 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 2017.

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: PA17-42

Appeal Decision : Penalty Overturned in Full

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: July 24, 2018

Decision Date: August 13, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 24, 2018. Appellant also appeared for Appellant Spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2017
- Exhibit 3: Notice of Appeal, dated May 7, 2018
- Exhibit 4: Statement of Appellant in support of the Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 and Appellant Spouse was 29 in 2017. Appellants filed a Massachusetts 2017 tax return as married, filing jointly, with no dependents claimed (Exhibit 2).
2. Appellants resided in Worcester County, MA in 2017 (Exhibit 2).
3. Appellants had an Adjusted Gross Income for 2017 of \$90,745 (Exhibit 2).
4. Both Appellants were insured through employer sponsored health insurance from Appellant Spouse's job during January through July 2017 (Exhibit 4 and Testimony of Appellant).

5. Both Appellants were insured through employer sponsored health insurance from Appellant's job during June through December 2017 (Exhibit 4 and Testimony of Appellant).
6. Appellants have each been assessed a penalty for two months for 2017 (Exhibit 2).
7. Appellants filed an Appeal on May 7, 2018 appealing the assessment of the penalty. Appellants claimed that they were both covered by health insurance that met the Massachusetts standards for all of 2017 (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2017, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1).

During 2017 Appellants were covered by employer sponsored health insurance from Appellant spouse's job during January through July. Both appellants were covered by employer sponsored insurance from Appellant's job from July through December 2017. Both policies met the Massachusetts creditable coverage standards. See Exhibits 3 and 4 and Testimony of Appellant, which I find to be credible.

I find the penalty should be waived in its entirety for 2017 for Appellant and Appellant Spouse

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2017 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 2017.

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: PA17-56

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 8, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 8, 2018. The Appellant's spouse did not attend the hearing but did submit a written statement. 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 July 12, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: Statement of Grounds for Appeal submitted by the Appellant on May 8, 2018.
- Exhibit 4: The Appellant spouse's letter in support of this appeal with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant spouse turned 37 years old in April 2017. The Appellant and their spouse filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Middlesex County, MA in tax year 2017 (Exhibit 2 and Appellant Testimony).
3. The Appellant and their spouse had Federal Adjusted Gross Income of \$69,703 for 2017 (Exhibit 2 and Appellant Testimony).
4. The Appellant had employer sponsored health insurance for all of tax year 2017 and is not being assessed any tax penalty (Exhibit 2; Appellant Testimony).

5. The Appellant's spouse did not have health insurance during the period of January through April 2017 (Exhibit 2; Appellant Testimony).
6. The Appellant spouse been assessed a one-month tax penalty for 2017. The Appellants filed an appeal of the assessment in May 2018 (Exhibits 2, 3, 4).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
8. In accordance with Table 3 of Schedule HC for 2017, the Appellants filing the Federal tax return as a married couple, with no dependents claimed, with an annual adjusted gross income of \$69,703 could afford to pay \$474 per month for health insurance. In accordance with Table 4, the Appellant spouse, age 37, living in Middlesex County, could have purchased private insurance for \$256 per month for a plan (Schedule HC for 2017). Private insurance appeared affordable and available to the Appellant in 2017 based on their annual income (Exhibit 2).
9. The Appellant testified that the information contained in the Schedule HC 2017 does not accurately reflect their financial circumstances in tax year 2017. The Appellant testified that their spouse is not a U.S. citizen. For the period of January 2017- May 24, 2017 the Appellant's spouse was present in the U.S. as a visitor. The Appellant explained that their spouse did not have a green card and was not able to work or be added to the Appellant's health insurance plan until their application for permanent resident status was approved. The Appellant said that they were told that they could not purchase affordable insurance until the Appellant's spouse had an eligible immigration status. The application for permanent resident status was approved effective May 24, 2017 and the Appellant spouse was able to work and be added to the Appellant's employer sponsored health insurance. The Appellant's credible testimony is supported by a letter from their attorney and a copy of the I-797 Notice of Action document verify that the Appellant spouse obtained legal permanent resident status effective May 24, 2017 (Exhibit 4).

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 and their spouse filed a joint income tax return for tax year 2017. The Appellant had employer sponsored health insurance for all of tax year 2017 and is not being assessed a penalty. The Appellant's spouse did not have health insurance for the period of January through April 2017 and has been assessed a one-month penalty. The Appellants submitted a statement of grounds for this appeal, claiming that the individual mandate

penalty did not apply in this case because of financial hardship and lack of access to affordable insurance. 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 2017, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$69,703 could afford to pay \$474 per month for health insurance. According to Table 4, the Appellant spouse, age 37, living in Middlesex County, could have purchased a private insurance plan for \$256 per month. See Schedule HC for 2017. Based on the Appellants' annual adjusted gross income, private insurance appeared affordable for the Appellant spouse in 2017.

The Appellant testified credibly that the annual income figure does not accurately reflect their financial circumstances for the year. The Appellant's spouse is not a U.S. citizen. The spouse was present in the U.S. as a visitor for the period of January 2017 through May 24, 2017. The Appellant's spouse was unable to be employed during this period of time and was not eligible to be added to the Appellant's employer sponsored insurance. Once the Appellant's spouse received legal permanent resident status on May 24, 2017 the spouse was able to work and could be added to the Appellant's employer sponsored insurance. During the months of January through April 2017 the Appellant and their spouse were meeting their living expenses with the Appellant's income alone. The Appellant said that the couple believed that the Appellant spouse could not purchase affordable insurance until granted an eligible immigration status. The cost of purchasing health insurance would have caused the Appellants to experience a serious financial hardship. See 956 CMR 6.08(1)(e). Under these circumstances, the Appellant spouse's one-penalty is waived.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2017. The Appellants should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 1 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-57

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 8, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 8, 2018. 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 July 12, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: The Statement of Grounds for Appeal submitted by the Appellant on May 8, 2018.
- Exhibit 4: The Appellant's written statement in support of this appeal with a copy of the Appellant's 2017 Tax Forms attached.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 22 years old in February 2017. The Appellant filed their Federal Income Tax return as a single individual (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2017 (Exhibit 2).
3. According to the information on the Appellant's 2017 Schedule HC, the Appellant did not have health insurance for the months of July through December in tax year 2017. The Appellant has been

assessed a 3-month tax penalty. This information is incorrect (Exhibits 2, 4 and Appellant Testimony).

4. The Appellant testified that that they had student insurance for part of the year and employer sponsored health insurance for the second half of the year. The Appellant said that they believed they submitted all required forms with their 2017 income tax return. The Appellant’s testimony was credible and supported by documentation submitted with their appeal request (Exhibits 3, 4 and Appellant Testimony).
5. The Appellant’s Forms 1095-B 2017 verifies that the Appellant had health insurance through Dartmouth College for the period of January through August 2017 (Exhibit 4 and Appellant Testimony)
6. The Appellant’s Form 1095-C 2017 and Form MA 1099-HC 2017 verify that the Appellant had Employer Sponsored health insurance coverage for the months of June through December of tax year 2017 (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.

Based on the information from the Appellant’s 2017 Schedule HC, it appeared that the Appellant did not have health insurance during January through June of tax year 2017. Consequently, a three-month penalty was assessed. The Appellant submitted a statement of grounds for this appeal, claiming that they did have health insurance for all twelve months of 2017. The Appellant submitted a copy of their Forms 1095-B and C verifying that they were in fact insured through Dartmouth College for the period of January through August 2017. The Appellant’s Form MA 1099-C verifies that the Appellant had employer sponsored health insurance for the period of July through December 2017. The Appellant’s three-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2017. 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

ADDENDUM

If the Appellant has not done so, it is suggested that the Appellant file an amended tax return for tax year 2017 and include the documentation necessary to verify their health insurance coverage for the year.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-70

Appeal Decision: Appeal Approved -- 2017 tax penalty overturned.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 7, 2018

Decision Date: August 26, 2018

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 – 2017 (with Appellant's handwritten comments);
3. MassHealth's Letter to Appellant (3 pages, dated 6/3/16);
4. Health Connector's Letter to Appellant (2 pages, dated 3/9/18);
5. Appellant's Handwritten Cover Letter Transmitting Documents to Health Connector (1 page, dated 3/10/17);
6. Health Connector's Eligibility Approval Letter to Appellant (3 pages, dated May 2, 2017);
7. Health Connector's Welcome Letter to Appellant (1 page, dated 7/7/17);
8. Health Connector's Notice of Hearing (3 pages, dated 7/12/18);
9. Hearing Officer's Open Record Order (1 page, dated 8/7/18);
10. Appellant's 2017 IRS Form 1095-A (1 page);
11. Health Connector's Enrollment Bill for June 2017 (1 page, dated 5/18/17);
12. Health Connector's Insurance Bill (1 page, dated 7/1/17);
13. Health Connector's Insurance Bills for September, October, November, December 2017 (4 pages, miscellaneous dates);
14. Health Connector's Insurance Bill for January 2018 (1 page, dated 12/1/17); and
15. Appellant's Bank Statements and Cancelled Checks (13 pages, miscellaneous dates).

At the conclusion of the appeal hearing testimony I held the hearing record open so that the Appellant could submit additional evidence of her health insurance coverage in 2017. Exhibit 9. I received Exhibits 10 through 15 from the Appellant in response.

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 2017. The basis for the penalty was that the Appellant was not insured at any time in 2017. Exhibits 1 and 2. As set forth below, I find that the Appellant had health insurance coverage through the Health Connector for part of 2017.
2. Based on the documentary evidence supplied by the Appellant in response to my Open Record Order (Exhibit 9), I find that the Appellant had health insurance coverage for the months of June through December 2017 (7 months). The 2017 1095-A Form that the Appellant received from the Internal Revenue Service (IRS) shows that the Appellant was insured beginning in July for the remainder of 2017 (6 months). Exhibit 10.
3. Other documents submitted by the Appellant show that the Appellant's health insurance coverage through the Health Connector began in June and continued for the remainder of 2017 (7 months). The Health Connector Enrollment Bill (Exhibit 11, dated 5/18/17) shows that the Appellant owed \$56 as her portion of the \$170 Tufts Health Direct ConnectorCare 2 monthly premium for the month of June 2017. The Health Connector's Insurance Bill for the month of August states: "Your coverage will start on 06/01/2017." Exhibit 12. This is consistent with the Appellant's bank statements that show an initial \$56 insurance premium payment cleared on May 31, 2017. Exhibit 15, page 1. The Health Connector's monthly Insurance Bills and the Appellant's other bank statements demonstrate that the Appellant continued to make premium payments for the remainder of 2017. Exhibit 13, pages 1 – 4, and Exhibit 15, pages 2 – 13. See also Exhibit 14 (Health Connector's Insurance Bill for January 2018 showing no outstanding balance).
4. I find that the evidence that the Appellant had health insurance coverage for the months of June through December 2017 reduces her potential penalty to 2 months (January and February) after the 3 month administrative grace period is applied. The calculation is 12 months minus 7 months insured = 5 months uninsured minus 3 month administrative grace period = 2 penalty months.
5. The Appellant was employed in 2016 and in 2017 but she was not offered employer-sponsored health insurance coverage through her job. Testimony.
6. The Appellant was insured through MassHealth in 2016 until she received a letter from MassHealth that ended her coverage effective June 17, 2016. Exhibit 3, page 2, and Testimony. The Appellant was not insured for the remainder of 2016. Testimony.

7. In January 2017 – the final month of the open enrollment period for 2017 that began in November 2016 -- the Appellant submitted an application to the Health Connector for health insurance coverage in 2017. Testimony. By letter dated March 9, 2017, the Health Connector requested that the Appellant submit documentary proof of her identity as part of the application process. Exhibit 4 (listing acceptable documents). The Appellant promptly submitted documents (Exhibit 5). By letter dated May 2, 2017, the Health Connector informed the Appellant of her “Eligibility Approval” with June 1, 2017, as the first available start date for her coverage. Exhibit 6, page 1. The Health Connector also informed the Appellant that she had a 60 days special enrollment period during which she could select and enroll in a health plan and pay her share of the first month’s premium. Exhibit 6, pages 1 and 2. (I note that the Appellant stated in her hearing testimony that she had an identity theft problem that complicated the application process.)
8. Based on the application submitted by the Appellant, the Health Connector determined that she was eligible for government-subsidized health insurance. She was eligible for a \$114 per month advance premium tax credit and she had to contribute \$56 per month toward the \$170 monthly health insurance premium. Exhibit 6, page 1, and Exhibit 11.
9. The Appellant filed her 2017 state income tax return as a single person with no dependents and reported \$27,040 in federal adjusted gross income (AGI). The Appellant’s AGI was less than 300% of the federal poverty level (\$35,640 for a one person household). DOR Table 2,
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 2017 Massachusetts income tax return.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2017 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 2017. 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 2017. (The DOR instructions are published online at <http://www.mass.gov/dor/2016ScheduleHCInstructions> 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 2017.)

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

2017. 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 – 2017 that the Appellant signed and filed in this case. See Exhibit 2.

The starting point for the decision of this appeal is the Appellant’s health insurance coverage for 2017. The DOR assessed a 12 month tax penalty based on the 2017 state income tax return filed by the Appellant that showed that she had no coverage in 2017. See Exhibit 1. The documents submitted by the Appellant in response to my Open Record Order (Exhibit 9) paint a different picture. They demonstrate convincingly that the Appellant had health insurance coverage through the Health Connector for the months of June – December 2017 (7 months). See Findings of Fact, Nos. 2 and 3 and Exhibits 10 – 15.

After the 3-month administrative grace period (described earlier) is applied to the documentary evidence showing coverage for 7 months in 2017 the issue on appeal is reduced to the months of January and February 2017. But the Appellant had submitted an application to the Health Connector in January 2017, and she had complied with the Health Connector’s request for more documents establishing her identity in March 2017. When the Health Connector informed the Appellant in May 2017 that her application was approved, she promptly selected the Tufts health plan, paid her share of the first month’s premium, and was enrolled by June 1 – the earliest start dated set by the Health Connector. See, e.g., Findings of Fact, Nos. 4 and 7. The backdrop is the Appellant’s \$27,040 AGI that shows she could not afford health insurance without a government subsidy. See, e.g., Findings of Fact, No. 9. See Mass. Gen. Laws c. 111M, sec. 2 (a), above.

For the foregoing reasons I vacate the entire penalty assessed against the Appellant for 2017.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: ____-0-____

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

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: PA17-84

Appeal Decision : Penalty Overturned in Full

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 9, 2018

Decision Date: August 20, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 9, 2018. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector
- Exhibit 2: Appeal Case Information from Schedule HC 2017
- Exhibit 3: Notice of Appeal, dated May 7, 2018
- Exhibit 4: Statement of Appellant in support of the Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 39 years old in 2017. Appellant filed a Massachusetts 2017 tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant resided in Bristol County, MA in 2017 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2017 of \$68,902 (Exhibit 2).
4. Appellant did not have insurance from January through June of 2017 (Testimony of Appellant and Exhibit 2).
5. Appellant was covered by employer sponsored health insurance from July through December 2017 (Testimony of Appellant and Exhibit 2).

6. In 2016, Appellant had been in between jobs and began a new job in the fall of 2016. Although the new job offered employer sponsored health insurance, Appellant did not sign up for the insurance as Appellant was catching up on bills for expenses (Testimony of Appellant).
7. In February 2017, Appellant received a raise in salary and tried to sign up for the employer sponsored insurance (Testimony of Appellant).
8. Appellant was not permitted to enroll in employer sponsored health insurance in February since it was not open enrollment for the company plan (Testimony of Appellant).
9. Appellant enrolled in the employer sponsored health insurance during the company's open enrollment and was enrolled during July through December 2017 (Testimony of Appellant and Exhibit 2).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
11. According to Table 3 of Schedule HC for 2017 a single person with no dependents with an adjusted gross income of \$68,902 could afford to pay \$469 per month for private insurance. According to Table 4, Appellant, aged 39 and living in Bristol County could have purchased private insurance for \$256 per month.
12. Private insurance was considered to be affordable for Appellant in 2017 (Schedule HC for 2017).
13. According to Table 2 of Schedule HC for 2017, Appellant, earning more than \$35,640, would not have met the income eligibility guidelines for government subsidized insurance.
14. Appellant had the following monthly expenses for basic necessities during 2017: rent \$800; utilities \$200; telephone \$100; food \$300; supplies \$216; clothing \$216; car payment \$300; car insurance \$100; gasoline \$100; student loans \$100; medical expenses \$108; child support \$800. The monthly expenses for basic necessities totaled \$3,340 (Testimony of Appellant).
15. Appellant has been assessed a penalty for three months for 2017 (Exhibit 2).
16. Appellant filed an Appeal on May 7, 2018 appealing the assessment of the penalty. Appellant claimed that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2017, 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 three months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

During 2016, Appellant had been looking for employment and struggling to pay for expenses. Appellant began a job in the fall of 2016, but did not sign up for the offered employer sponsored health insurance as Appellant was struggling to catch up on the bills. In February 2017, Appellant received a raise in salary and attempted to sign up for the employer sponsored health insurance. Appellant was not permitted to sign up for the insurance until the open enrollment period in spring 2017. Appellant did sign up and began health insurance coverage that met Massachusetts creditable coverage standards beginning in July, 2017. According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2017, private health insurance was considered to be affordable for Appellant, but Appellant did not apply for private insurance. Depending on when Appellant applied, Appellant also may have been prohibited from enrolling in private insurance until open enrollment in late 2017. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Given Appellant's financial circumstances, and since Appellant began coverage in July 2017, find that the penalty should be waived in full. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

I find the penalty assessed against Appellant for 2017 should be waived in its entirety.

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 2017 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 2017.

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: PA17-85

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2017 Tax Year Penalty
Hearing Date: August 9, 2018
Decision Date: August 27, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2018. 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 Appellant's testimony and the following documents which were admitted in evidence:

Exhibit 1: Notice of Hearing sent to Appellants dated July 12, 2018
Exhibit 2: Appeal Case Information Sheet from Schedule HC 2017
Exhibit 3: Statement of Grounds for Appeal 2017 signed by Appellant on May 2, 2018
Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 42 years old in 2017 and filed a 2017 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Plymouth County, MA in 2017 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2017 was \$24,670 (Exhibit 2).
4. During 2017, employer sponsored insurance was available to Appellant at a cost of \$477 per month (Testimony of Appellant).
5. During 2017, Appellant did not sign up for employer sponsored insurance (Testimony of Appellant).

6. Appellant applied for government subsidized health insurance and was found eligible. The government subsidized health insurance would have cost \$71 per month, but Appellant did not enroll (Testimony of Appellant).
7. Appellant was assessed a penalty for twelve months for 2017 (Exhibit 2).
8. Appellant filed an appeal in May, 2018, claiming that health insurance was not affordable (Exhibit 3).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
10. According to Table 3 of Schedule HC for 2017 a person filing as single, with no dependents claimed and with a Federal Adjusted Gross Income of \$24,670 could afford to pay \$86 per month for health insurance. According to Table 4, Appellant, age 42 and living in Plymouth County, could have purchased private insurance for \$323 per month. Private insurance was not affordable for Appellant in 2017.
11. According to Table 3 of Schedule HC for 2017, Appellant also could not afford to purchase the employer sponsored insurance for \$477 per month.
12. According to Table 2 of Schedule HC for 2017, Appellant, earning less than \$35,640 would have met the income eligibility guidelines for government subsidized insurance. Since employer sponsored health insurance was available and the cost more than 9.69% of Appellant's Federal Adjusted Gross Income, Appellant would not have been blocked from enrolling in government subsidized health insurance.
13. Appellant had the following monthly expenses for basic necessities during 2017: rent \$433; utilities \$180; telephone \$100; food \$520; clothing \$25; car payment \$498; car insurance \$118; gasoline \$100; car maintenance \$10; medical expenses \$21. The monthly expenses for basic necessities totaled \$2,005 (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 2017 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2017, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant before we consider

whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant worked in 2017 and employer sponsored health insurance was available to Appellant at a cost of \$477 per month. According to Table 3 of Schedule HC for 2017, Appellant, who filed taxes as a single person with no dependents could afford to pay \$86 per month for health insurance. The employer sponsored insurance was not affordable. Private insurance would have cost Appellant \$323 per month and also would not be affordable. Government subsidized health insurance was available to Appellant but Appellant did not sign up for government subsidized insurance. See Schedule HC for Healthcare, Tables 2, 3 and 4, Exhibits 2, 3 and 4, and Testimony of Appellant, which I find to be credible. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2017, Appellant had monthly expenses for basic necessities in the amount of \$2,005 per month. Since Appellant's monthly income was \$2,055, I find that for 2017, the purchase of health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.081 (e). HOWEVER, Appellant is advised that this decision is based upon the facts as I have found them in 2017 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years.

I find that the penalty assessed against Appellant for 2017 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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is encouraged to contact the Health Connector at 1-877 623-6765 to get information about government subsidized health insurance. Appellant should have up to date income information as well as up to date information about employer sponsored health insurance. Failure to obtain health insurance could result in a penalty in future years.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-89

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2017 Tax Year Penalty
Hearing Date: August 9, 2018
Decision Date: August 29, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2018. 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 Appellant's testimony and the following documents which were admitted in evidence:

- Exhibit 1: Notice of Hearing sent to Appellant dated July 12, 2018
- Exhibit 2: Appeal Case Information Sheet from Schedule HC 2017
- Exhibit 3: Statement of Grounds for Appeal 2017 signed by Appellant on May 7, 2018
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2017 and filed a 2017 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived and worked in Massachusetts from January through July 2017 (Exhibit 4 and Testimony of Appellant).
3. In July 2017, Appellant moved out of Massachusetts (Exhibit 4 and Testimony of Appellant).
4. While Appellant lived in Massachusetts during January through July 2017, Appellant was covered by employer sponsored health insurance that met Massachusetts minimum creditable coverage standards (Exhibit 2 and Testimony of Appellant).
5. Appellant was assessed a penalty for two months for 2017 (Exhibit 2).

6. Appellant filed an appeal in May, 2018, claiming that Appellant had health insurance while living in Massachusetts, but moved out of the state in July (Exhibit 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2017 should be waived, either in whole or in part.

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2017, 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 lived in Massachusetts from January through July 2017 and was covered by employer sponsored health insurance during that time. Appellant’s employer sponsored health insurance met the Massachusetts minimum creditable coverage standards. Appellant moved out of the state in July 2017. Appellant has been assessed a penalty of two months for failure to have health insurance during August through December 2017. See Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

I find that Appellant’s obligation to be covered by health insurance ended when Appellant moved out of state.

I find that the penalty assessed should be waived in its entirety.

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 2017 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-753

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: August 7, 2018

Decision Date: August 17, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 7, 2018.

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

Exhibit 1: Notice of Hearing dated July 11, 2018

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated February 1, 2018

Exhibit 3: Written statement of appeal with documents providing health insurance information

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty six years old and is single. She lives in Hampshire County, Massachusetts.

2. She works in the education field. She had health insurance through her mother in 2016 and in addition had health insurance on her own for the months of October, November and December 2016.
3. Appellant was covered for health insurance during 2016 and had health insurance in 2017 and has health insurance in 2018. Appellant provided proof of health insurance, (1095B, 1095C, 1095HC and testified that she had health insurance during 2016, which I credit. (Exhibit 4 and Appellant testimony
4. Appellant now has health insurance that meets the minimum credible coverage standards of Massachusetts.
5. The appellant did not submit a Statement of Grounds for Appeal-2016 but should have submitted under the grounds for Appeal, "Other, that you had health insurance that did meet minimum creditable coverage standards.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did not submit a Statement of Grounds for Appeal-2016 but should have submitted under the grounds for Appeal, "Other, that you had health insurance that did meet minimum creditable coverage standards.

Appellant was insured for the whole year of 2016. Appellant provided proof from her mother's insurance that she had health insurance.

Looking at the totality of the circumstances, I conclude it is appropriate to waive the penalty in full.

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-762

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: August 8, 2018

Decision Date: August 21, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 8, 2018. The Appellant's spouse appeared as a witness. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open until August 22, 2018 to allow the Appellant to submit additional information. The Appellant submitted additional information on August 15, 2018.

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 July 12, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 22, 2018.
- Exhibit 4: A copy of the Appellant's form 1095-C for tax year 2016.
- Exhibit 5: A copy of Health Connector Minimum Creditable Coverage (MCC) Requirements.
- Exhibit 6: Health Connector Appeals Unit Open Record form.
- Exhibit 7: Additional documents submitted by the Appellant during the record open period.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 25 years old in November 2016. The Appellant filed their Federal Income Tax return as a single individual (Exhibit 2).
2. The Appellant was a part time resident who lived in Middlesex County, MA from July 1, 2016-December 31, 2016 (Exhibit 2).

3. According to the information on the Appellant's 2016 Schedule HC, the Appellant did not have health insurance meeting Massachusetts minimum creditable coverage requirements (MCC) for the months of July thorough December in tax year 2016. The Appellant has been assessed a 3-month tax penalty. This information is incorrect (Exhibits 2, 4 and Appellant Testimony).
4. The Appellant testified that that they had health insurance under a policy provided by their parent's out of state employer. The Appellant submitted a copy of Form 1095-C for tax year 2016 verifying the Appellant had health insurance for all months of tax year 2016 (Exhibit 4).
5. The Appellant testified credibly that they were unsure if their parent's policy met Massachusetts MCC requirements but stated that the coverage was sufficient to meet their needs in tax year 2016 (Exhibit 5 and Appellant Testimony).
6. The record was left open until August 22, 2018 to allow the Appellant to submit verification of their health insurance coverage including a Benefit Summary (Exhibit 6).
7. The Appellant submitted a letter from the Human Resources Department of their parent's employer verifying that the Appellant was enrolled in a Premium Plan administered through Anthem BCBS for all of tax year 2016. The Base Plan did not meet Massachusetts MCC but the Premium Plan did meet Massachusetts MCC (Exhibit 7).

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.

Any health insurance policy must also satisfy the Massachusetts "minimum creditable coverage standards" (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

The Appellant filed their 2016 tax return as a part time Massachusetts resident for the period of July 1, 2016 through December 31, 2016. Based on the information from the Appellant's 2016 Schedule HC, it appeared that the Appellant did not have health insurance that met Massachusetts MCC standards for this six-month period of time. Consequently, a three-month penalty was assessed. The Appellant submitted a statement of grounds for this appeal, claiming that they did have health insurance for all twelve months of 2016.

From the evidence in the record prior to the Hearing, it appeared that there was a question of whether the Appellant's out of state health insurance met Massachusetts MCC standards. The Appellant was unaware of the requirements and was therefore unsure if the coverage provided under their parent's employer sponsored

insurance plan was sufficient to meet these standards. The record was left open to allow the Appellant to obtain additional information. The Appellant submitted a letter from their parent's employer verifying that the Appellant was insured under a Premium Plan administered by Anthem BCBS. A Benefit Summary verified that the Base Plan did not meet Massachusetts MCC standards, but the Premium Plan did. Since the Appellant was insured under the Premium Plan, no penalty is warranted. See 956 CMR 6.08(2)(d). The Appellant's three-month penalty is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2016. 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 2016.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-103

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 15, 2018

Decision Date: August 17, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 15, 2018.

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

Exhibit 1: Notice of Hearing dated July 17, 2018

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated May 7, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty six years old and is single with one dependent. He lives in Hampshire County, Massachusetts.

2. Appellant works in manufacturing services.
3. Appellant lives with his daughter, his fiancé and her two children. His fiancée is a stay at home mother. His employer does not offer health insurance.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$4,684.00, consisting of Mortgage \$1,550.00, light, \$250.00, heat \$100.00, internet & cable \$65.00, cell phone \$260.00, car payment \$500.00 car insurance \$179.00, car gas \$200.00, food \$800.00, credit card \$400.00, toiletries \$40.00, clothes \$100.00, entertainment \$240.00, .
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size). Appellant should also have submitted under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear the appeal under both grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$75,424.00 was more than \$48,060.00. The monthly premium for health insurance available on the private market in Hampshire County for a 35 year old single person with one dependent was \$630.00. The tables reflect that Appellant could afford \$512.88. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “Other. During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size). Appellant should also have submitted under “During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$24,030.00 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 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$75,424.00 in 2017, 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$512.88 monthly for health insurance. See 2017 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 \$630.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$512.88 for health insurance coverage because of her income. Private insurance in the market place was \$630.00 per month, which is more than he could afford. In addition, he was voluntarily providing support for his fiancé and her two children. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-104

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 15, 2018

Decision Date: August 18, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 15, 2018.

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

- Exhibit 1: Notice of Hearing dated July 17, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 11, 2018
- Exhibit 4: Prior Appeal Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and his wife is thirty one years old and is married with two children. They live in Bristol County, Massachusetts.
2. Appellant stated that the cost of living did not allow him and his wife to have insurance for the year. Appellant indicated that they were able to obtain health insurance this year through his wife's employer. Appellant submitted a gas shut off notice for June 2014.
3. Appellants have health insurance in 2018.
4. The Appellant's monthly expenses totaled \$4,830.00, consisting of Mortgage \$1,400.00, light, \$100.00, heat \$70.00, internet & cable \$160.00, cell phone \$70.00, car payments \$800.00 car insurance \$220.00, car gas \$480.00, food \$440.00, credit card \$530.00, toiletries \$70.00, clothes \$100.00, entertainment \$150.00, water & sewer \$90.00, school loan \$150.00 .
5. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, you received a shut-off notice; were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone). Appellant should also have submitted under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear the appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$99,487.00 was more than \$72,900.00. The monthly premium for health insurance available on the private market in Bristol County for a 30 year old married person with two dependents was \$615.00. The tables reflect that Appellants could afford \$676.51. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, you received a shut-off notice; were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone). Appellant should also have submitted under “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$36,450.00 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 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$99,487.00 in 2017, and Appellant’s filing status was married 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$676.51 monthly for health insurance. See 2017 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 \$615.00 monthly for coverage with two dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his

circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

Appellant is deemed to afford \$676.51 for health insurance coverage because of his income. Private insurance in the market place was \$615.00 per month, which is less than he could afford. In addition, he was voluntarily providing support for his fiancé and her two children. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-113

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 22, 2018

Decision Date: August 28, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 22, 2018. The Appellant's parent appeared as a witness. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony, their parent's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 17, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 23, 2018.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 22 years old in February 2017. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2017 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2017 was \$21,891 (Exhibit 2, Appellant Testimony).
4. The Appellant had MassHealth for the period of January through April in tax year 2017. The Appellant did not have health insurance for the period of May through December 2017 (Exhibit 2, Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2017. The Appellant filed an appeal of the assessment in May 2018 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
7. In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return as an individual, with no dependents claimed, with an annual adjusted gross income of \$21,891 could afford to pay \$53 per month for health insurance. In accordance with Table 4, the Appellant, age 22, living in Bristol County, could have purchased private insurance for \$150 per month for a plan (Schedule HC for 2017). Private insurance was not affordable for the appellant in 2017.
8. The Appellant would have been eligible for ConnectorCare coverage in 2017 because the Appellant's income was less than 300% of the federal poverty level, which was \$35,640 in 2017. The Appellant had no access to affordable insurance through employment (See Table 2 of Schedule HC-2017 and 956 CMR 12.04) (Exhibit 3, Appellant Testimony).
9. The Appellant testified that they were covered under their parent's MassHealth case and did not know until they filed their taxes for the year 2017 that their MassHealth had been terminated. The Appellant said that they never received any notice from MassHealth. The Appellant argued that they are only 23 years old and do not know the rules about health insurance coverage in Massachusetts (Exhibit 4, Appellant Testimony).
10. The Appellant's parent was the Head of Household for the MassHealth case. The Appellant's parent said that the family moved three times in three years and that they did not receive notices sent by MassHealth. The Appellant's parent said that their MassHealth was terminated and they did not know until they attempted to obtain medical treatment (Parent Testimony).
11. The Appellant lived with their parent in tax year 2017 and was responsible for a portion of the rent and utilities. The Appellant's monthly living expenses included: rent-\$650; car payment \$309; car insurance- \$300; gasoline-\$173 and telephone-\$87. The Appellant said their parent paid for all food. The Appellant testified that they struggled to meet expenses and were forced to move several times. I found the Appellant to be a credible witness (Appellant Testimony).
12. The Appellant currently has health insurance (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had no health insurance for the last eight months of 2017. The Appellant has been assessed a five-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return with no dependents claimed with an adjusted gross income of \$21,891 could afford to pay \$53 per month for health insurance. According to Table 4, the Appellant, age 22, living in Bristol County, could have purchased a private insurance plan for \$150 per month. See Schedule HC for 2017. Private insurance was not affordable for the Appellant in tax year 2017.

The Appellant had no access to affordable employer-sponsored health insurance in tax year 2017. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$35,640. See Table 2 of Schedule HC 2017 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2017, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was receiving MassHealth as a member of their parent's case. The Head of Household would have received any notices issued by MassHealth regarding eligibility for family members. The Appellant testified credibly that they were unaware that their MassHealth eligibility ended until they filed their 2017 taxes and received the form showing they were not covered from May through December. The Appellant's parent testified that the family moved, and they did not receive the notice of termination from MassHealth prior to the case closing.

The Appellant's monthly living expenses were substantial, and the Appellant testified credibly that they struggled to meet these expenses with limited income. The cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's penalty for all five months is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2017. 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: 5 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-117

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 22, 2018

Decision Date: August 28, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 22, 2018. The Appellant's parent appeared as a witness. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony, their parent's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 22, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 19, 2018.
- Exhibit 4: The Appellant's note in support of this appeal, written on a COBRA Benefit Continuation of Coverage Letter from the Appellant's former employer.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 30 years old in April 2017. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2017 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2017 was \$27,453 (Exhibit 2, Appellant Testimony).
4. The Appellant had employer sponsored health insurance for the month of January 2017. The Appellant did not have health insurance for the period of February through December 2017 (Exhibit 2, Appellant Testimony).

5. The Appellant has been assessed an eight-month tax penalty for 2017. The Appellant filed an appeal of the assessment in May 2018 (Exhibits 2, 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
7. In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return as an individual, with no dependents claimed, with an annual adjusted gross income of \$27,453 could afford to pay \$96 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Plymouth County, could have purchased private insurance for \$278 per month for a plan (Schedule HC for 2017). Private insurance was not affordable for the appellant in 2017.
8. The Appellant would have been eligible for ConnectorCare coverage in 2017 because the Appellant's income was less than 300% of the federal poverty level, which was \$35,640 in 2017. The Appellant had no access to affordable insurance through employment for the months of February through December 2017 (See Table 2 of Schedule HC-2017 and 956 CMR 12.04) (Exhibit 4, Appellant Testimony).
9. The Appellant testified that they lost their job and employer sponsored health insurance at the end of January. The Appellant's income dropped from \$62,635 in 2016 to \$27,453 in 2017. The Appellant said that COBRA insurance was not affordable at \$574.11 per month and private insurance was not affordable. The Appellant said that they tried to obtain health insurance through the Health Connector in April 2017 but were told that they had missed the window for a special enrollment period and would have to wait (Exhibit 4, Appellant Testimony).
10. The Appellant's monthly living expenses included: rent-\$1,525; electricity-\$90-\$100; car insurance-\$100; gasoline-\$130; telephone-\$90 and food-\$650. The Appellant testified that in addition to these expenses they had a car repair bill of \$350 and incurred significant transportation and parking expenses taking a parent to chemotherapy treatment for several months. I found the Appellant to be a credible witness (Appellant Testimony).
11. The Appellant's parent confirmed the Appellant's testimony regarding transportation expenses for medical treatment (Witness Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had no health insurance for the last eleven months of 2017. The Appellant has been assessed an eight-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return with no dependents claimed with an adjusted gross income of \$27,453 could afford to pay \$96 per month for health insurance. According to Table 4, the Appellant, age 30, living in Plymouth County, could have purchased a private insurance plan for \$278 per month. See Schedule HC for 2017. Private insurance was not affordable for the Appellant in tax year 2017.

The Appellant had no access to affordable employer-sponsored health insurance for the last eleven months of 2016. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$35,640. See Table 2 of Schedule HC 2017 and 956 CMR 12.04 for eligibility criteria. The Appellant was eligible for a Special Enrollment period after losing their insurance at the end of January, but the Appellant did not apply for insurance until more than sixty days later and had to wait for the next open enrollment period. See 45 CFR § 155 and 956 CMR 12.10(5). Since affordable insurance was available to the Appellant in 2017, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was employed until the end of January 2017. The Appellant's income was significantly decreased. COBRA insurance would have cost \$574.11 per month and was therefore not affordable. The Appellant's monthly living expenses were substantial, and the Appellant testified credibly that they struggled to meet these expenses with the reduced income. The Appellant incurred additional expenses transporting a parent to and from chemotherapy treatments. The cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's penalty for all eight months is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2017. 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: 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 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-120

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 22, 2018

Decision Date: August 27, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 22, 2018. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 22, 2018.
- Exhibit 2: Appeal Case Information from Schedule HC 2017.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on May 18, 2018.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 60 years old in April 2017. The Appellant filed their Federal Income Tax return as an individual with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2017 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2017 was \$25,401 (Exhibit 2, Appellant Testimony).
4. The Appellant had employer sponsored health insurance from January through April 2017. The Appellant did not have health insurance for the period of May through December 2017 (Exhibit 2, Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2017. The Appellant filed an appeal of the assessment in May 2018 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2017 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 2017. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2017.
7. In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return as an individual, with no dependents claimed, with an annual adjusted gross income of \$25,401 could afford to pay \$89 per month for health insurance. In accordance with Table 4, the Appellant, age 60, living in Plymouth County, could have purchased private insurance for \$441 per month for a plan (Schedule HC for 2017). Private insurance was not affordable for the appellant in 2017.
8. The Appellant would have been eligible for ConnectorCare coverage in 2017 because the Appellant's income was less than 300% of the federal poverty level, which was \$35,640 in 2017. The Appellant had no access to affordable insurance through employment for the months of May through December 2017 (See Table 2 of Schedule HC-2017 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified that they lost their insurance after being hurt on the job and unable to perform their duties. The Appellant said that they tried to keep it going by doing light duty work but was unable to do so. The Appellant said that COBRA insurance was not affordable at \$1,100 per month and private insurance was not affordable given their age. The Appellant said that they eventually tried to obtain health insurance through the Health Connector but were told that they had missed the window for a special enrollment period and would have to wait. The Appellant said that they got behind in their bills because they were trying to keep from losing their home. I found the Appellant to be a credible witness.
10. The Appellant submitted documents verifying that in tax year 2017 they were more than thirty days behind in their mortgage payment. In addition, the Appellant's car insurance was cancelled for non-payment of the premium. The Appellant was also in arrears with their electric and telephone bills (Exhibit 4, Appellant Testimony).
11. The Appellant is currently insured through the Health Connector after having applied during open enrollment at the end of tax year 2017 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had no health insurance for the last eight months of 2017. The Appellant has been assessed a five-month penalty. The Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2017, the Appellant filing the Federal tax return with no dependents claimed with an adjusted gross income of \$25,401 could afford to pay \$89 per month for health insurance. According to Table 4, the Appellant, age 60, living in Plymouth County, could have purchased a private insurance plan for \$441 per month. See Schedule HC for 2017. Private insurance was not affordable for the Appellant in tax year 2017.

The Appellant had no access to affordable employer-sponsored health insurance for the last eight months of 2016. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$35,640. See Table 2 of Schedule HC 2017 and 956 CMR 12.04 for eligibility criteria. The Appellant was eligible for a Special Enrollment period after losing their insurance in April, but the Appellant did not apply for insurance until more than sixty days later and had to wait for the next open enrollment period. See 45 CFR § 155 and 956 CMR 12.10(5). Since affordable insurance was available to the Appellant in 2017, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was employed for the first four months of tax year 2017 but lost their job due to an injury. The Appellant's income was significantly decreased. COBRA insurance would have cost \$1,100 per month and was therefore not affordable. The Appellant's monthly living expenses were substantial, and the Appellant testified credibly that they struggled to meet these expenses with the reduced income. The Appellant submitted documentation of substantial arrearages in their mortgage and utility bills. The cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's penalty for all five months is therefore waived.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2017. 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: 5 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2017.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-145

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 20, 2018

Decision Date: August 22, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 20, 2018.

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

Exhibit 1: Notice of Hearing dated July 17, 2018

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated May 21, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty nine years old and is single. He lives in Middlesex County, Massachusetts.

2. Appellant works in customer services.
3. Appellant was laid off in June 2017. His income for the second half of 2017 was dramatically different then when he had a job, as he was collecting unemployment.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$1,678.00, consisting of taxes \$500.00, home insurance \$90.00 light, 80.00, heat \$233.00, internet & cable \$160.00, cell phone \$65.00, car insurance \$180.00, car gas \$100.00, food \$200.00, credit card \$0.00, clothes \$25.00, entertainment \$25.00, water & sewer \$20.00 .
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered and you felt your circumstances prevented you from buying other insurance that met the requirements". Appellant should also have submitted under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear the appeal under both grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$41,322.00 was more than \$35,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 28 year old single person was \$150.00. The tables reflect that Appellant could afford \$254.81. However, Appellant's income during his period of uninsurance was during his period collecting unemployment, which income was at an annual rate of \$31,200.00 and the tables reflect that at this rate, Appellant could only afford \$130.00. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered and you felt your circumstances prevented you from buying other insurance that met the requirements”. Appellant should also have submitted under “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$41,322.00 in 2017, 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$254.81 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$254.81 for health insurance coverage because of her income. Private insurance in the market place was \$150.00 per month. However, Appellant’s income during his period of uninsurance was during his period collecting unemployment, which income was at an annual rate of \$31,200.00 and the tables reflect that at this rate, Appellant could only afford \$130.00, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-148

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 20, 2018

Decision Date: August 22, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 20, 2018.

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

- Exhibit 1: Notice of Hearing dated July 17, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 25, 2018
- Exhibit 4: Written statement of appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty five years old and is single. She lives in Worcester County, Massachusetts.

2. Appellant works in the health care industry food.
3. Appellant broke her leg in 2016 and was immobilized and couldn't work for nine months. When she finally was able to work in May of 2017, she could not afford the insurance. Appellant had to pay past due bills and pay back her mother who had provided for her during her disability. Appellant lives with her mother and they received shut off notices for February & November 2017.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$1,825.00, consisting of rent \$550.00, heat & light \$85.00, car payment & car insurance \$300.00, car gas \$80.00, food \$300.00, toiletries \$20.00, clothes \$150.00, entertainment \$100.00, student loan, \$60.00, pet \$40.00, cable \$140.00 .
6. The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for Appeal, " During 2017, you received a shut-off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, Primary telephone). However, Appellant should also have appealed under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear her appeal under both grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$30,390.00 was less than \$35,640.00. The monthly premium for health insurance available on the private market in Worcester County for a 24 year old single person with zero dependents was \$150.00. The tables reflect that Appellant could afford \$126.62. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017, under the grounds for Appeal, “ During 2017, you received a shut-off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, Primary telephone). However, Appellant should also have appealed under “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. I will hear her appeal under both grounds.

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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$30,390.00 in 2017, and Appellant’s filing status was single with no dependents. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2017 Massachusetts Schedule HC, Appellant could afford to pay \$126.62 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$126.62 for health insurance coverage because of her income. Private insurance in the market place was \$150.00 per month. On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2017. 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 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-149

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 20, 2018

Decision Date: August 23, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 20, 2018.

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

- Exhibit 1: Notice of Hearing dated July 17, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 21, 2018
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty years old and his wife is twenty five years old. They live in Plymouth County, Massachusetts.
2. Appellant stated that they lived in New York and moved to Massachusetts to be closer to their family. They moved to Massachusetts in August, 2017. They both were unemployed for the remainder of 2017 and lived off their savings. Appellant's wife obtained employment in 2018 and they now both have health insurance.
3. Appellants have health insurance in 2018.
4. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable. Appellant should also have submitted under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear the appeal under both grounds.
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 2017. 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 2017.
6. 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 \$39,147.00 was less than \$48,060.00. The monthly premium for health insurance available on the private market in Plymouth County for a 39 year old married person was \$603.00. The tables reflect that Appellants could afford \$202.25. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "Other. During 2017 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable. Appellant should also have submitted under " During 2017, the expense of

purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$24,030.00 for a married person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$39,147.00 in 2017, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2017 Massachusetts Schedule HC, Appellant could afford to pay \$202.25 monthly for health insurance. See 2017 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 \$603.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$202.25 for health insurance coverage because of his income. Private insurance in the market place was \$603.00 per month, which is more than he could afford. In addition, both he and his wife were unemployed after their moveto Massachusetts in 2017. On these facts, I find

that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2017 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-150

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 20, 2018

Decision Date: August 23, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 20, 2018.

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

- Exhibit 1: Notice of Hearing dated July 17, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 24, 2018
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty years old and is single. He lives in Bristol County, Massachusetts.

2. Appellant works in sports services.
3. Appellant is laid off every year in December and then rehired in April of the following year. In 2016, he was laid off and reclassified as to his employment. When he returned to his former employment because of his reclassification, it took two more months to be placed on his employer's health insurance. This glitch in health insurance had nothing to do with Appellant.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$2,895.00, consisting of rent \$575.00, light & heat \$75.00, internet & cable \$120.00, cell phone \$160.00, car payment \$335.00, car insurance \$110.00, car gas \$80.00, food \$350.00, credit card \$450.00, entertainment \$70.00, toiletries \$20.00, child support \$550.00.
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." And "Other. During 2017 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$44,919.00 was more than \$35,640.00. The monthly premium for health insurance available on the private market in Bristol County for a 48 year old single person was \$313.00. The tables reflect that Appellant could afford \$284.48. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” And “Other. During 2017 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 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$44,919.00 in 2017, 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$284.48 monthly for health insurance. See 2017 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 \$33.00 monthly for coverage with zero dependents *Id.* at Table 4. Appellant’s lack of health insurance was due to a reclassification of his employment by his employer and not anything Appellant did.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his

circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” Id. at 6.08(1).

Appellant is deemed to afford \$284.48 for health insurance coverage because of her income. Private insurance in the market place was \$313.00 per month. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-177

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 21, 2018

Decision Date: August 28, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 21, 2018.

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

Exhibit 1: Notice of Hearing dated July 17, 2018

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated May 21, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty nine years old and is single. He lives in Middlesex County, Massachusetts.

2. Appellant works in customer services.
3. Appellant was laid off in June 2017. His income for the second half of 2017 was dramatically different then when he had a job, as he was collecting unemployment.
4. Appellant has health insurance in 2018.
5. The Appellant's monthly expenses totaled \$1,678.00, consisting of taxes \$500.00, home insurance \$90.00, light, 80.00, heat \$233.00, internet & cable \$160.00, cell phone \$65.00, car insurance \$180.00, car gas \$100.00, food \$200.00, credit card \$0.00, clothes \$25.00, entertainment \$25.00, water & sewer \$20.00 .
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered and you felt your circumstances prevented you from buying other insurance that met the requirements". Appellant should also have submitted under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear the appeal under both grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$41,322.00 was more than \$35,640.00. The monthly premium for health insurance available on the private market in Middlesex County for a 28 year old single person was \$150.00. The tables reflect that Appellant could afford \$254.81. However, Appellant's income during his period of uninsurance was during his period collecting unemployment, which income was at an annual rate of \$31,200.00 and the tables reflect that at this rate, Appellant could only afford \$130.00. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, you purchased health insurance that didn’t meet minimum creditable coverage standards because that is what your employer offered and you felt your circumstances prevented you from buying other insurance that met the requirements”. Appellant should also have submitted under “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$41,322.00 in 2017, 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$254.81 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$254.81 for health insurance coverage because of her income. Private insurance in the market place was \$150.00 per month. However, Appellant’s income during his period of un-insurance was during his period collecting unemployment, which income was at an annual rate of \$31,200.00 and the tables reflect that at this rate, Appellant could only afford \$130.00, which is more than he could afford. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-181

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 21, 2018

Decision Date: August 28, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 21, 2018.

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

Exhibit 1: Notice of Hearing dated August 2, 2018

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated May 4, 2018

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty five years old and is single. He lives in Bristol County, Massachusetts.

2. Appellant works in retail sales.
3. Appellant had his pipes burst in his apartment and he incurred a major expense in paying for the repairs, as the pipes froze after he lowered the temperature and went on a trip.
4. Appellant does not have health insurance in 2018.
5. The Appellant's monthly expenses totaled \$2,342.00, consisting of rent \$750.00, light & heat \$350.00, internet & cable \$120.00, cell phone \$90.00, car insurance \$172.00, car gas \$160.00, food \$400.00, credit card \$0.00, clothes \$0.00, toiletries \$200.00, transportation \$100.00 .
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you." and "Other,: During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable" Appellant should also have appealed under " During 2017, 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 all these grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would have been eligible for subsidized health insurance, since Appellant's income of \$24,334.00 was less than \$35,640.00. The monthly premium for health insurance available on the private market in Bristol County for a 24 year old single person was \$150.00. The tables reflect that Appellant could afford \$85.16. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions).

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you.” and “Other,; During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable” Appellant should also have appealed under “ During 2017, 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 all these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$24,334.00 in 2017, 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$85.16 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$85.16 for health insurance coverage because of his income. Private insurance in the market place was \$150.00 per month, which is more than he could afford.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-182

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 21, 2018

Decision Date: August 18, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 21, 2018.

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

- Exhibit 1: Notice of Hearing dated August 2, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 21, 2018
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty nine years old and his wife is thirty eight years old and is married with one children. They live in Bristol County, Massachusetts.
2. Appellant stated that he was unemployed from January to March of 2017. His employer a laborers union measures your qualification for health insurance from April to April of each year. Due to his unemployment, Appellant did not qualify for health insurance. As soon as Appellant qualified, he obtained health insurance in July of 2017. Appellant submitted a written statement from his landlord indicating that Appellant was in arrears on his rent from February through May of 2017.
3. Appellants have health insurance in 2018.
4. The Appellant's monthly expenses totaled \$4,723.00, consisting of rent \$950.00, light, \$200.00, heat \$350.00, internet & cable \$200.00, cell phone \$200.00, car payments \$423.00 car insurance \$250.00, car gas \$800.00, food \$600.00, credit card \$250.00, toiletries \$100.00, clothes \$250.00, entertainment \$150.0 .
5. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice. Appellant should also have submitted under " During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear the appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$99,835.00 was more than \$60,480.00. The monthly premium for health insurance available on the private market in Bristol County for a 38 year old married person with one dependent was \$650.00. The tables reflect that Appellants could afford \$678.87. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions). However, the Appellant was unemployed in January & February of 2017 and was in arrears in his rent during this period of time.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice”. Appellant should also have submitted under “ During 2017, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear the appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$30,240.00 for a married 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 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$99,835.00 in 2017, and Appellant’s filing status was married 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$678.87 monthly for health insurance. See 2017 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 \$650.00 monthly for coverage with one dependent *Id.* at Table 4.

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

Appellant is deemed to afford \$678.87 for health insurance coverage because of his income. Private insurance in the market place was \$650.00 per month, which is less than he could afford. However, the Appellant was unemployed in January & February of 2017 and was in arrears in his rent during this period of time. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA17-183

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2017 Tax Year Penalty

Hearing Date: August 21, 2018

Decision Date: August 28, 2018

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 21, 2018.

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

- Exhibit 1: Notice of Hearing dated August 2, 2018
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated May 23, 2018
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is single. He lives in Essex County, Massachusetts.
2. Appellant works in manufacturing.
3. Appellant was hurt on the job in June 2017. He only worked six months last year. His workman's compensation only pays him 60% of his former salary. Appellant has had back surgery. Appellant received two disconnection notices from Colombia Gas in 2017.
4. Appellant does not have health insurance in 2018.
5. The Appellant's monthly expenses totaled \$3,064.00, consisting of rent \$1,000.00, light, \$150.00, heat \$275.00, internet & cable \$0.00, cell phone \$105.00, car payment \$328.00 car insurance \$116.00, car gas \$280.00, food \$520.00, credit card \$0.00, clothes \$75.00, toiletries \$100.00, child support \$115.00 .
6. The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, "During 2017, you received a shut-off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) and "Other,: During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable" Appellant should also have appealed under " During 2017, 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 all these grounds.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2017. 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 2017.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$25,270.00 was less than \$35,640.00. The monthly premium for health insurance available on the private market in Essex County for a 29 year old single person was \$150.00. The tables reflect that Appellant could afford \$88.44. This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions).

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did submit a Statement of Grounds for Appeal-2017 under the grounds for Appeal, “During 2017, you received a shut-off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) and “Other,: During 2017 other circumstances such as: applying the Affordability Tables in Schedule HC to you is inequitable” Appellant should also have appealed under “ During 2017, 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 all these grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2017, 150 percent of the FPL was \$17,820.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2017 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 2017. 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 2017 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$25,270.00 in 2017, 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 2017 Massachusetts Schedule HC, Appellant could afford to pay \$88.44 monthly for health insurance. See 2017 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 \$150.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant is deemed to afford \$88.44 for health insurance coverage because of his income. Private insurance in the market place was \$150.00 per month, which is more than he could afford.

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2017. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2017 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 2017 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit