

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-319

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 20, 2020

Decision Date: August 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 20, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

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

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

- Ex. 4—2019 Form 1095-C

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 23-years old, is married, and does not have children. ² (Testimony, Ex. 2)
2. The appellant was employed in 2019 and had employer provided health insurance from June through December. (Testimony, Ex. 2)

¹

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

² The appellant got married in February, 2020.

3. The appellant believed that he also had health insurance coverage from January through May, 2019. After he filed his 2019 tax returns, he received a Form 1095-C from his employer which indicated that health insurance was offered to the appellant in 2019 for which his required monthly contribution would have been \$106.65 from January through June and \$108.33 from June through December. (Testimony, Ex. 4)
4. The appellant reported an adjusted gross income of \$49,762.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019, but did not identify a specific ground for his appeal. He testified credibly that he was employed throughout 2019 and believed that he had employer sponsored health insurance for the whole year. He further testified that after he filed his 2019 tax returns, he received a Form 1095-C from the employer which he believed supported his contention that he had health insurance for the whole year.

The appellant indicated on his Schedule HC that he had minimum creditable coverage (MCC) health insurance from June through December, and he offered corroborative testimony to that effect. Although the information in the Form 1095-C raises questions about the nature of that coverage and his enrollment, the appellant will be accorded the benefit of the doubt about his insurance during that period of time. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for five months, he was assessed and is appealing a penalty of two months (i.e. the months of uninsurance less the gap period of three months).

The record was left open at the conclusion of the hearing for the appellant to submit documentation of his coverage for the months of January through May. Unfortunately, the documentation he submitted does not show that he was enrolled in insurance for that period, but only what his contribution would have been had he been enrolled. While it is difficult to understand how he mistook actual coverage when no premiums were evidently paid for the time period in question, there is insufficient evidence to conclude that his belief was entirely unreasonable or that he intentionally evaded insurance requirements. At most, it appears that there was a misunderstanding which led to the result in question.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty should be **granted** for the months for which he was assessed due to apparent confusion over whether he was enrolled in MCC insurance. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 2

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised to carefully review the health insurance offered by his employer for 2021 to ensure that he is actually enrolled and that his coverage is adequate. He is further advised not to rely on a similar extension of leniency should he be assessed a penalty in the future for the same issues addressed in the current appeal.

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-379

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

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

Hearing Date: August 4, 2020

Decision Date: August 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on August 4, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated July 9, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated March 24, 2020.
- Exhibit 4: Eversource utility shut-off notices dated January 28 and March 11, 2020.

FINDINGS OF FACT

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

1. Appellant turned 48 years old and resided in Bristol County in 2019. (Exhibit 2).
2. Appellant filed her Federal Income Tax return as single with one dependent claimed, with an Adjusted Gross Income for 2019 of \$33,582. (Exhibit 2).
3. Appellant did not have health insurance for the entirety of 2019 and has been assessed a twelve-month tax penalty for 2019. Appellant filed an appeal of the assessment in March, 2020. (Exhibit 3).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Healthcare Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
5. In accordance with Table 3 of Schedule HC for 2019, an Appellant filing the Federal tax return as a single person, with one dependents claimed, with an annual adjusted gross income of \$33,582 could afford to pay \$174 per month for a family plan. In accordance with Table 4 of Schedule HC for 2019, Appellant, age 48, living in Bristol County, could have purchased private insurance for \$855 per month.
6. Appellant had the following monthly expenses for basic necessities in 2019: rent - \$960; gas – \$80; electricity - \$200; internet - \$45; telephone - \$115; food - \$400. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and she is appealing a twelve-month tax penalty for 2019. (Exhibit 2). Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate did not apply to her because in 2019 she received utility shut-off notices, and because the expense of purchasing health insurance would have caused her a deprivation of food, shelter or other necessities. (Exhibits 3 and 4).

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

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with one dependent, with an annual adjusted gross income of \$33,582, could afford to pay \$174 monthly for a family health insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 48 and living in Bristol County, \$855 per month to purchase a family plan on the private market. I conclude that purchasing individual coverage on the private market would not have been affordable for Appellant. While Appellant testified that she never looked into Connector Care coverage, I find that Appellant would have been eligible for Connector Care coverage because her 2019 income was less than 300% of the federal poverty level (eligibility for government-subsidized health insurance is based on family income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of two). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that during 2019, she first worked full-time for an employer who did not offer employer-sponsored health insurance; she then began working twenty hours each at two part-time jobs in 2019. (Appellant Testimony). Appellant testified that because she was part-time, she assumed employer-sponsored health insurance was not available to her and did not inquire with either employer. (Appellant Testimony). Appellant credibly testified that she paid, without having appealed, individual mandate penalties in at least two previous years, including Tax Year 2017 and Tax Year 2018. (Appellant Testimony). I find that Appellant has not credibly demonstrated that affordable employer-sponsored health insurance was not available to her in 2019.

Because Appellant did not obtain affordable employer-sponsored health insurance that was available during 2019, she is subject to a tax penalty unless she demonstrates a financial hardship within the meaning of the statute. See 956 C.M.R. 6.08. Financial hardship considerations include homelessness or rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, or any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Appellant credibly testified, supported by submission of the notices themselves, that she received two separate utility shutoff notices in 2020, for arrearages incurred in part in 2019. (Exhibit 4; Appellant Testimony). Based on Appellant's credible testimony, I find that she is currently in arrearages to this utility provider in the amount of \$1,300, and is only able to pay enough each month to avoid shut-off. (Appellant Testimony). Appellant testified that she currently works only twenty hours per week due to the pandemic and will likely be reporting a decrease in her income for Tax Year 2020.

Based on the record before me, I conclude that Appellant experienced a financial hardship such that Appellant could not purchase otherwise affordable health insurance in 2019. Accordingly, Appellant's appeal is **UPHELD** and the twelve-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

In light of Appellant’s testimony that she failed to obtain health insurance and paid an individual mandate penalty in at least two previous years, Appellant is advised not to rely on a similar grant of leniency or hardship finding should she appeal the assessment of a penalty in any future tax year. Appellant is advised to ascertain her eligibility for Connector Care plans based on her presumed prior eligibility, as well as the 2020 change in her income.

Massachusetts Health Connector Appeals Unit

Final Appeal Decision PA 19-244

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

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

Hearing Date: July 14, 2020

Decision Date: August 7, 2020

AUTHORITY

This hearing was conducted pursuant to PPACA §1411(f), 45 CFR 155, M.G.L. c. 30A, c. 111M and c. 176Q, 956 CMR 12.00 and the rules and regulations promulgated thereunder.

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on July 14, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated June 9, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by Appellant on March 9, 2020.
- Exhibit 4: Appellant's Letter in support of this Appeal dated March 9, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant turned 35 years old and resided in Essex County in 2019. (Exhibit 2).
2. Appellant filed their Federal Income Tax return as Married Filing Separate with no dependents claimed, with an Adjusted Gross Income for 2019 of \$38,300. (Exhibit 2).
3. Appellant did not have health insurance for the entirety of 2019, and has been assessed a twelve (12) month tax penalty for 2019. The Appellant filed an appeal of the assessment in March, 2020. (Exhibit 3).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Healthcare Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal Poverty Level and Tables 5 and 6 set forth tax penalties in effect for 2019.
5. In accordance with Table 3 of Schedule HC for 2019, an Appellant filing the Federal tax return as Married Filing Separately, with no dependents claimed, with an annual adjusted gross income of \$38,300 could afford to pay \$134 per month for health insurance. In accordance with Table 4 of Schedule HC for 2019, Appellant, living in Essex County, at age 34 could have purchased private insurance for \$279 per month for a single plan, and \$286 per month after turning age 35. Individual coverage was not affordable for Appellant.
6. Appellant was working in 2019 and had access to employer sponsored insurance, but does not remember if her portion of the premium was \$140 or \$280 per pay period. (Appellant Testimony).
7. Appellant's rent increased in 2019 and Appellant felt that she could not afford to pay the employer sponsored health insurance premium. (Appellant Testimony).
8. Appellant would not have been eligible for Connector Care coverage in 2019 because Appellant's income was more than 300% of the Federal Poverty Level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04; Exhibit 2).
9. Appellant fell more than thirty days behind in utility payments in 2019 and received shutoff notices on two separate occasions in 2019. (Exhibits 3 and 4; Appellant Testimony).
10. Appellant has a history of health issues for which she was hospitalized back in 2016. (Exhibit 4; Appellant Testimony).
11. Appellant had health insurance at the time of her hospitalization in 2016, which included a \$6,000 deductible. (Appellant Testimony).
12. Appellant had the following monthly expenses for basic necessities in 2019: rent - \$1300; electricity - \$75; heat - \$50; telephone - \$35; employment-related transportation costs - \$281; food - \$300. (Appellant Testimony).
13. Appellant lost four weeks of pay in 2020 and obtained Connector Care coverage in April of 2020. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Massachusetts legislature enacted the tax penalty to encourage compliance with G.L c. 111M, § 2, also called the "individual mandate", which requires every adult resident of Massachusetts obtain

insurance coverage “[s]o long as it is deemed affordable.” 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. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. (See 956 CMR 6.08).

The issue before me is whether the 2019 Tax Year individual mandate penalty assessed against Appellant should be waived in whole or in part.

To make this determination, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to Appellant during the months they were uninsured. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable for Appellant because of financial hardship, as defined in 956 CMR 6.08.

Appellant submitted a statement of grounds for this appeal, claiming that the individual mandate penalty did not apply to them because they received utility shut-off notices in 2019, and because purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 3). Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable. Appellant has been assessed and is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

In accordance with Table 3 of Schedule HC for 2019, Appellant filing the Federal tax return as Married Filing Separate, with no dependents claimed, with an annual Adjusted Gross Income of \$38,300 could afford to pay \$134 per month for health insurance. In accordance with Table 4 of Schedule HC for 2019, the Appellant, living in Essex County, could have purchased insurance for a single plan for \$279 per month at age 34, and \$286 per month after turning age 35. I conclude that purchasing individual coverage at \$279 or \$286 per month was not affordable for Appellant. While Appellant testified that employer sponsored insurance was available, they do not remember the cost per pay period. From Appellant’s testimony I conclude that the cost was likely \$280 per month, and would have been unaffordable for Appellant. Based on the record before me, I find that Appellant would not have been eligible for Connector Care coverage in 2019 because Appellant’s income was more than 300% of the Federal Poverty Level. (Exhibit 2).

A determination must be made whether Appellant experienced a financial hardship in 2019. (See 956 CMR 6.08 and 956 CMR 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member, experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, or any other grounds that demonstrate unaffordability. (See 956 CMR 6.08 and 956 CMR 12.11).

The record shows that in 2019 Appellant experienced severe financial difficulties to the point of falling behind with rent and water payments, and receiving shutoff notices.

Appellant credibly testified that they had difficulty paying their utility bill in 2019, and after receiving a shut-off notice, they negotiated a payment plan with the utility provider. (Exhibit 4; Appellant Testimony). The record shows that Appellant's difficulty in paying the utility arrearages continued despite the payment plan, and they received another shut-off notice in 2019, copies of which Appellant unsuccessfully attempted to obtain. (Exhibits 3 and 4; Appellant Testimony). Appellant's testimony regarding rent arrearages for more than thirty days in 2019 was corroborated by a letter dated February 28, 2020 from Appellant's landlord referencing outstanding rent in the amount of \$1000 and water in the amount of \$123. (Exhibits 4 and 5; Appellant Testimony).

While Appellant had access to affordable employer sponsored health insurance, the record shows that Appellant experienced financial hardship, including rent arrearages for greater than thirty days and receipt of utility shut-off notices, making otherwise affordable health insurance unaffordable for Appellant.

On this basis, I conclude that Appellant established, through substantial and credible evidence, that they experienced a financial hardship in 2019, such that they could not purchase otherwise affordable health insurance and should not be subject to a penalty.

Appellant's request for a waiver from the penalty is granted.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-341

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 27, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone on July 27, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellants testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on March 5, 2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence dated March 5, 2020 (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated June 22, 2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 2, with no dependents. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$68,995 (Exhibit 1).
3. Appellant Husband testified he was removed from MassHealth in 2018. (Testimony).
4. Appellant Wife retired in August 2018 and received Medicare.
5. Appellants testified they attempted to apply for MassHealth for the Appellant Husband at least 3 times and again in January 2020 and thereafter but was not successful and has not received a response. (Testimony of Appellant, Exhibit 2(a)).
6. Appellant Husband was not offered health insurance from his employer. (Testimony, Exhibit 2(a)).
7. Appellants testified the Appellant Husband is paid hourly and nets approximately \$800-\$900 every two (2) weeks. (Testimony).

8. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,255, Cell Phone \$300, Cable \$300, Car Insurance \$270, Gas \$ 80, Food \$300, Car repairs for 2 vehicles \$7,000/12 \$583, Vet Bills \$35, Out of Pocket Co Pays Drs. appointment and prescriptions (\$5,000/12 = \$416, totaling \$3,539/month. (Testimony of Appellant).

9. Appellant Husband have been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).

10. According to Table 3 Appellant Husband could have afforded \$459.97 per month for an individual health insurance for in 2019. According to Table 4 Appellants could have purchased insurance for \$375 per month.

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

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. The Appellant Husband has been assessed a tax penalty for twelve (12) months in 2019. The Appellant Wife has not been assessed a penalty. The Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to them during 2019 because of Other, that During 2019 other circumstance, that they were unable to obtain government subsidized insurance even though their income qualified them. They also adduced testimony during the hearing of other grounds to wit: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities.

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

The Appellant Husband testified that that employer sponsored health insurance was not offered through his employer. The Appellant testified that they investigated insurance options through the private insurance market and government sponsored insurance but were unsuccessful in getting a response.

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

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$68,995.00 in 2019 was more than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two, and the

Appellants could have afforded \$459.97 per month to purchase affordable insurance for the Appellant Husband. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with zero (0) dependents with a federal adjusted gross income of \$68,995.00 and higher is deemed to be able to afford a monthly premium of \$459.97 (8.00% of \$68,995.00). According to Table 4, Appellants, age 57 and 57 and 67, living in Hampshire County during the time they were being penalized for not having insurance, could have purchased insurance for \$375 per month for the Appellant Spouse Husband's individual plan since the Appellant Spouse was enrolled in Medicare, more than the monthly amount deemed affordable from Table 3. Individual coverage was affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

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

The Appellants testified that they had the following monthly expenses for basic necessities in 2019. Rent: \$1,255, Cell Phone \$300, Cable \$300, Car Insurance \$270, Gas \$ 80, Food \$300, Car repairs for 2 vehicles \$7,000/12 \$583, Vet Bills \$35, Out of Pocket Co Pays Drs. appointment and prescriptions (\$5,000/12 = \$416, totaling \$3,539/month. (Testimony of Appellant).

The evidence presented by the Appellants in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The Appellants testified that in 2019 they incurred basic monthly expenses of approximately \$3,539.00, Those expenses were less than their regular monthly pre-tax income of approximately \$5,750(\$68,995/12), thereby making a private health insurance premium of \$375/month manageable, and would not have caused an undue hardship. Notwithstanding the foregoing analysis, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve-month assessment.

Accordingly, it is concluded that the Appellants did not establish through substantial and credible evidence that they did experience other circumstances including a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3).

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 4

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant(s) still does not have health insurance, and if their income and employment have not changed, they are advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

Final Appeal Decision PA 19-245

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

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

Hearing Date: July 14, 2020

Decision Date: August 14, 2020

AUTHORITY

This hearing was conducted pursuant to the PPACA §1411(f), 45 CFR 155, M.G.L. c. 30A, c. 111M and c. 176Q, 956 CMR 12.00, and the rules and regulations promulgated thereunder.

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on July 14, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated June 9, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated March 2, 2020.
- Exhibit 4: Appellant's Letter in support of this Appeal dated March 2, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant turned 30 years old and resided in Franklin County in 2019. (Exhibit 2).
2. Appellant filed their Federal Income Tax return as single with no dependents claimed, with an Adjusted Gross Income for 2019 of \$38,836 (Exhibit 2).
3. Appellant did not have health insurance for the entirety of 2019 and has been assessed a twelve (12) month tax penalty for 2019. The Appellant filed an appeal of the assessment in March, 2020. (Exhibit 3).

4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Healthcare Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
5. In accordance with Table 3 of Schedule HC for 2019, an Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$38,836 could afford to pay \$241 per month for health insurance. In accordance with Table 4 of Schedule HC for 2019, Appellant, living in Franklin County, age 30, could have purchased private insurance for \$231 per month for a single plan. Individual coverage was affordable for Appellant.
6. Appellant was employed throughout the entirety of 2019 and had access to employer sponsored insurance at a cost of \$250 per month. (Appellant Testimony).
7. Appellant was not eligible for Connector Care coverage in 2019 because Appellant's income was more than 300% of the federal poverty level. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04; Exhibit 2).
8. Appellant's 2019 net monthly income was approximately \$2,300, with the following monthly expenses for basic necessities: rent - \$675; electricity - \$70; heat - \$40; telephone - \$90; internet - \$26; car payment - \$300; car insurance - \$65; food - \$200. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the "individual mandate", which requires every adult resident of Massachusetts obtain insurance coverage "[s]o long as it is deemed affordable." 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. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. (See 956 CMR 6.08).

The issue before me is whether the 2019 Tax Year penalty assessed again Appellant should be waived in whole or in part.

To make this determination, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to Appellant during the months they were uninsured. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 CMR 6.08.

Appellant would not have been eligible for Connector Care coverage in 2019 because Appellant's income was more than 300% of the federal poverty level. (Exhibit 2).

Appellant submitted a statement of grounds for this appeal, claiming that the expense of purchasing health insurance would have caused a serious deprivation of food, clothing or other necessities. (Exhibit

3). Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable. Appellant has been assessed and is appealing a twelve-month tax penalty for 2019. (Exhibit 2).

In accordance with Table 3 of Schedule HC for 2019, Appellant filing the Federal tax return as single, without dependents, with an annual adjusted gross income of \$38,836 could afford to pay \$241 per month for health insurance. In accordance with Table 4 of Schedule HC for 2019, Appellant, age 30, living in Franklin County, could have purchased insurance for a single plan for \$231 per month. Appellant testified that the cost of employer sponsored health insurance available to them in 2019 was \$250 per month. Based on the record before me, I find that purchasing individual coverage was affordable for Appellant. I further conclude that Appellant did not provide a credible reason for failing to sign up for employer sponsored health insurance during his employer's open enrollment period in 2019.

A determination must be made whether Appellant experienced a financial hardship in 2019. (See 956 CMR 6.08 and 956 CMR 12.11). Financial hardship considerations include homelessness or rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, or any other grounds that demonstrate unaffordability. (See 956 CMR 6.08 and 956 CMR 12.11).

The record shows, and I find, that Appellant received no late rent or utility shut-off notices and did not experience any sudden increases in essential expenses in 2019. Appellant testified that in 2019 he paid off his car loan and paid down his credit card debt as a result of his intentional decision to forego purchasing health insurance. (Exhibit 4; Appellant Testimony). I find that the expense of purchasing health insurance would not have resulted in a deprivation of basic necessities for the Appellant.

Based on the record before me, I find that affordable insurance was available to Appellant in 2019. I further find that Appellant did not experience a financial hardship, as defined in 956 CMR 6.08, such that Appellant could not purchase otherwise affordable health insurance.

On this basis, I deny Appellant's request for a waiver from the twelve (12) month 2019 Tax Year individual mandate penalty.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-395

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 11, 2020

Decision Date: August 26, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 17, 2020. The Appellant Spouse was not present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/23/20. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documents 2019 1040 and Additional Income (3 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 7/14/20 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 2 and no dependents. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$47,878 (Exhibit 1).
3. Appellant testified she was employed as a contractor and paid \$65-\$85 on a per job basis and was not offered health insurance in 2019. (Testimony, Exhibit 2(a)).
4. Appellant testified her spouse left his employer prior to obtaining employer health insurance. (Testimony of Appellant).
5. Appellant's Spouse stated in an Exhibit that he was working for a Company in November 2019 and he was under the impression they were both covered and that his employer did not explain to [him] they were not covered. (Exhibit 2(a)).
6. Appellant testified they obtained MassHealth in November 2019 after her Spouse required hospitalization.

(Appellant Testimony).

7. Appellant testified paid a one-time installment payment of \$3,500 in July for a credit card. (Testimony).
8. Appellant testified they are currently in the process of a divorce and she resides in a different location.
- 9 Appellant testified she did not have enough money at times to purchase food. (Testimony).
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$240, Car Repairs \$16, Food/Incidentals \$600: Cell Phone \$130, Bank Service Dental Plan \$29(\$350/year), Car Payment \$158, Car Insurance \$160, Gas \$200, One Time credit card Payment $\$3,500/12 = \291.66 , totaling \$1,824/month. (Testimony of Appellant).
11. Appellant has been assessed a tax penalty for seven (7) months in 2019. Appellant's Spouse has not been assessed a tax penalty. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$293.25 per month for health insurance in 2019. According to Table 4 Appellants could have purchased insurance for \$514.00 per month.
13. Appellant has moved to a different address, has obtained employment, and has employer health insurance.
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. The Appellant have been assessed a tax penalty for seven (7) months, her Spouse zero (0) months in 2019. The Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2), Other.

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

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

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$47,878.00 in 2019 was less than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two, and they

could have afforded \$293.25 per month to purchase affordable insurance. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with no dependents with a federal adjusted gross income of \$49,380 and higher is deemed to be able to afford a monthly premium of \$293.25 (7.35% of \$47,878.00). According to Table 4, Appellants, both age 30, living in Barnstable County during the time they were being penalized for not having insurance, could have purchased insurance for \$514.00 per month, more than the monthly amount deemed affordable from Table 3. Individual coverage was not affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

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

The Appellant testified that they had the following monthly expenses for basic necessities in 2019: Rent: \$240, Car Repairs \$16, Food/Incidentals \$600, Cell Phone \$130, Bank Service Dental Plan \$29(\$350/year), Car Payment \$158, Car Insurance \$160, Gas \$200, One Time Payment \$3,500/12= \$291.66, totaling \$1,824/month. (Testimony of Appellant).

The evidence presented by the Appellants in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The Appellant credibly testified that in 2019 she was working part time and that she did not have enough money at times to purchase food, thereby making a private health insurance premium of \$514.00/month unmanageable.

Accordingly, it is concluded that the Appellants did establish through substantial and credible evidence that they experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). Based on the totality of the evidence, it is concluded that the Appellant's are exempt from the individual mandate and their request for a waiver from the penalty is **approved**.

Appellants should note that any waiver granted here is for 2019 only and is based upon the specific facts I have found to be true 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: 7 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellants still does not have health insurance, and if their income and employment have not changed, they are advised to investigate their eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18911

Appeal Decision: The penalty is waived.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: August 5, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing, which was held by telephone on August 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellant on June 4, 2019 with letter in support attached

Exhibit 1a: Connector notice of hearing sent to Appellant, dated October 28, 2019 for December 4, 2019 hearing

Exhibit 1b: Connector letter to Appellant dated December 5, 2019 dismissing appeal, returned to Connector on March 9, 2020 with letters signed by Appellant on December 17, 2019 and February 23, 2020 with mortgage bills for December, 2019, January and February, 2020 attached

Exhibit 1c: Connector notice of hearing dated February 7, 2020 for March 24, 2020 hearing

Exhibit 1d: Letter to Connector from Appellant dated December 30, 2019

Exhibit 1e: Print-out showing Appellant's work schedule, December, 2019

Exhibit 2: Appeal Information sheet Schedule HC, 2018

Exhibit 3: Connector notice of hearing sent to Appellant, dated July 8, 2020 for August 5, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 58 years old in 2018. Appellant has one adult child (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Hampden County in 2018 (Exhibit 2, Testimony of Appellant).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$73,005 (Exhibit 2, Testimony of Appellant).

4. Appellant worked as a sub-contractor for a trucking company all of 2018. He hauled mail for the United States Post Office. He earned the same amount each week. His take-home pay was about \$1,000 a week (Testimony of Appellant).
5. Appellant was not offered health insurance by his employer. Appellant tried to obtain health insurance in 2018, but he felt he could not afford the premium (Testimony of Appellant).
6. Appellant has been assessed a tax penalty for all of 2018. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed with an adjusted gross income of \$73,005 could afford to pay \$489 per month for health insurance. According to Table 4, Appellant, age 58 and living in Hampden County, could have purchased insurance for \$423 per month. Individual coverage was affordable for the appellant in 2018 (Schedule HC for 2018, Exhibit 2).
9. According to Table 2 of Schedule HC for 2018, Appellant earning more than \$36,180 per year would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).
11. Appellant fell more than thirty days behind in mortgage payments in 2018 once or twice (Testimony of Appellant).
12. Appellant had his phone service cancelled at least one time in 2018 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities in 2018: mortgage, property taxes, and home owner's insurance- \$1,453; heat-average of \$166; electricity- \$250; telephone -\$120; food-\$1,000; clothing-\$25; car insurance-\$195; gas-\$430. During the year, Appellant paid \$2,000 for truck repairs, \$2,000 for personal loan payments, and \$600 for plowing of his property. Appellant raised cows for beef. He spent \$150 a month for care of the cows (Testimony of Appellant, Exhibit 1b, 1d).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed with an adjusted gross income of \$73,005 could afford to pay \$489 per month for health insurance. According to Table 4, Appellant, age 58 and living in Hampden County, could have purchased insurance for \$423 per month. on the individual market. Individual coverage was affordable for the appellant in 2018. See Schedule HC for 2018, Exhibit 1.

Appellant worked as a sub-contractor for a trucking company all of 2018. He hauled mail for the United States Post Office. He was not offered health insurance through employment. See the testimony of the appellant which I find to be credible. Appellant also had no access to health insurance through the ConnectorCare program. He earned too much to be eligible. See Exhibit 2 and Schedule HC-2018, Table 2.

Since Appellant had access to affordable insurance through the individual market, we need to determine if he experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08 et. seq.

Appellant had the following monthly expenses for basic necessities: mortgage, property taxes, and home owner's insurance- \$1,453; heat-average of \$166; electricity- \$250; telephone -\$120; food-\$1,000; clothing-\$25; car insurance-\$195; gas-\$430. During the year, Appellant paid \$2,000 for truck repairs, \$2,000 for personal loan payments, and \$600 for plowing of his property. Appellant raised cows for beef. He spent \$150 a month for care of the cows. See the testimony of the appellant which I find to be credible, and Exhibit 1b, 1d.

Appellant's expenses came to about \$4,200 a month. Appellant had about \$4,300 disposable income a month. If Appellant had purchased health insurance at a cost of about \$423, he would have run a deficit every month. I find that health insurance was unaffordable for the appellant because the cost of the premium would have caused the appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e) and 6.08(3) which allows the consideration of other financial issues raised by the appellant.

In addition, Appellant fell more than thirty days behind in his mortgage payment at least once and had his telephone service shut off at least one time during 2018. See the testimony of the appellant which I find to be credible. Pursuant to 956 CMR 6.08(1)(a) and (b), the cost of health insurance would have been unaffordable for the appellant.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-167

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 10, 2020

Decision Date: August 5, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Notice of Hearing (5-19-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (2-24-20) (with letter and documents) (12 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 40 during 2019, from Worcester County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant was unemployed for some of the year, and was behind on rent, car payments and utilities. (Appellant testimony Exhibit 3). In addition, Appellant's car was flooded and required repair. (Appellant testimony, Exhibit 3).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$33,146.00 (Exhibit 2).
5. Appellant received shut off notices for utilities in June, July and August of 2019. (Appellant testimony, Exhibit 3).

6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$1,800.00 per month averaged out, or \$21,600.00 for the year (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$306.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$138.00.
9. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they were behind in rent, had received a shut-off notice, that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019, and that they incurred a flooding of their car. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, but was thirty days or more behind in rent in 2019, and also Appellant did receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$33,146.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$138.00 per month; according to Table 4, Appellant, who was 40 years old in 2019, from Worcester County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$306.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they received shut-off notices, that they were 30 days or more behind in rent, that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities, and that they experienced a flooding of their car during 2019. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-168

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 10, 2020

Decision Date: August 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Notice of Hearing (5-19-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-10-20) (with letter and documents) (10 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 26 during 2019, from Norfolk County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance for October through December of 2019, and did have health insurance through a travel insurance policy for January through March (though not clear if it met minimum creditable coverage), but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant came to the United States (and Massachusetts) near the end of January 2019, and was covered by health insurance through a travel insurance policy. Appellant was unsure of whether they would stay in the United States, and had coverage through the policy for three months.

Once Appellant decided to stay, Appellant signed up for health insurance through the employer as soon as Appellant was able to do so. (Appellant testimony Exhibit 3).

4. Appellant's Federal Adjusted Gross Income for 2019 was \$33,622.00 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$140.00.
7. Private insurance was not affordable for the Appellant in 2019 (Schedule HC for 2019).
8. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
9. Appellant claimed that they should be granted a waiver based on the grounds that they were covered by health insurance through a travel insurance policy, that they did not arrive until late part of January 2019, that they were unsure of whether they would stay; and that they signed up for the employer health insurance as soon as possible after deciding to stay. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and also did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did have health insurance for the months of October through December, and did have health insurance through a travel insurance policy from January through March of 2019 (though not clear if it

met minimum creditable coverage), and did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for six months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$33,622.00 was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$140.00 per month; according to Table 4, Appellant, who was 26 years old in 2019, from Norfolk County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that Appellant should be granted a waiver based on the grounds that they were covered by health insurance through a travel insurance policy, that they did not arrive until late part of January 2019, that they were unsure of whether they would stay; and that they signed up for the employer health insurance as soon as possible after deciding to stay. . For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-169

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 10, 2020

Decision Date: August 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Notice of Hearing (5-19-20) (3 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-17-20) (with letter) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 47 during 2019, from Middlesex County, filed single on the tax return with a family size of 1 (Exhibit 2). However, Appellant did send money for children to Uganda.
2. Appellant did have health insurance through the employer for January through April of 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant came to the United States (and Massachusetts) in 2016 as an asylum seeker from Uganda. Appellant sends money for two children in Uganda and extended family. Appellant had health insurance through the employer but did not believe it was affordable. (Appellant testimony Exhibit 3).

4. Appellant's Federal Adjusted Gross Income for 2019 was \$61,025.00 (Exhibit 2).
5. Appellant now has health insurance through MassHealth. Appellant Testimony).
6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, and other necessities, totaled approximately \$3,000.00 per month averaged out, or \$36,000.00 for the year (Appellant's Testimony). In addition, Appellant had expenses for seeking asylum and also sent money to children and extended family in Uganda.
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$350.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$406.00.
9. Private insurance was affordable for the Appellant in 2019 (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019, and that they sent money for children in Uganda. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and also Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$61,025.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$406.00 per month; according to Table 4, Appellant, who was 47 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$350.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19198

Appeal Decision : Penalty waived in full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 19, 2020

Decision Date: August 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 19, 2020. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until July 10, 2020 to give the appellant time to submit additional evidence. A document was received from the appellant on July 17, 2020. This document has been marked as an exhibit and admitted in evidence. The record was then reopened until August 6, 2020 to give Appellant time to submit evidence concerning health insurance benefits. A document was received on August 7, 2020. This, too, was marked as an exhibit and admitted in evidence. The record of this hearing is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 20, 2020 with Appellant's 1095C 2019 and health insurance card attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated May 22, 2020 for hearing on June 19, 2020
- Exhibit 4: Connector letter to Appellant dated June 19, 2020 with open record request attached
- Exhibit 5: Letters to Appellant from health insurer dated July 1, 2020 regarding dates of coverage for Appellant and Appellant's minor child
- Exhibit 6: Summary of Benefits and Coverage for Appellant and Appellant's minor child, 2019

FINDINGS OF FACT:

The record shows, and I so find:

1. The appellant was 41 years old in 2019. She filed a 2019 Massachusetts tax return as a head of household with one dependent, Appellant's minor child, claimed. Appellant was married all of 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Hampden County, MA in 2019 with her husband and their minor child (Exhibit 2, Testimony of Appellant).

3. Appellant had a Federal Adjusted Gross Income of \$30,444 in 2019. Her husband also worked,; he earned \$35,000 in 2019 (Testimony of Appellant, Exhibit 2).
4. In 2019, Appellant was employed except for a period of three months when she was out of work. She worked in Connecticut (Testimony of Appellant).
5. Appellant had health insurance through her job during 2019 and for the previous five years. As of the date of this hearing, she was still insured. The coverage did not meet the Commonwealth's minimum creditable coverage standards, though Appellant was never assessed a penalty before 2019. Appellant paid over \$500 a month for coverage for her and her child (Testimony of Appellant, Exhibit 1 and Exhibit 2)
6. The health insurance coverage Appellant had in 2019 substantially met the Massachusetts minimum creditable coverage standards. The plan had very broad coverage including free preventive care, screenings, immunizations, and diagnostic tests. The plan also covered visits to specialists, diagnostic testing including imaging, prescription drugs, out-patient surgery, emergency room visits, in-patient care, psychiatric services, substance abuse care, maternity care, and other services such as rehabilitation services. There was a limit to out-of-pocket expenses of \$11,000 for family. There was no lifetime coverage limit. The deductible was \$5,500 for her and her minor child (Testimony of Appellant, Exhibit 6).
7. The appellant had insurance has been assessed a penalty for eight months. Appellant has appealed this assessment. (Exhibits 1 and 2, Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant had health insurance through her job in 2019. She had had the same coverage for several years prior to 2019 and had never been assessed a penalty before. Though she had the same coverage all year and the coverage did not meet the Commonwealth's minimum creditable standards, Appellant has only been assessed a penalty for eight months. The appellant has appealed the penalty. See Exhibits 1, 2, and the testimony of the appellant which I find to be credible. The issue on appeal is whether the tax penalty assessed 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 which 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 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. 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.

To determine if the penalty should be waived in whole or in part, we must consider whether the insurance the appellant had in 2019 substantially met the Commonwealth's minimum creditable coverage standards as set out in 956 CMR 5.00 et. seq. See also 956 CMR 6.08(2)(d) which 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.

The health insurance coverage Appellant had in 2019 substantially met the Massachusetts minimum creditable coverage standards. The plan had very broad coverage including free preventive care, screenings, immunizations, and diagnostic tests. The plan also covered visits to specialists, diagnostic testing including imaging, prescription drugs, out-patient surgery, emergency room visits, in-patient care, psychiatric services, substance abuse care, maternity care, and other services such as rehabilitation services. There was a limit to out-of-pocket expenses of \$11,000 for family. There was no lifetime coverage limit. The deductible was \$5,500 for her and her minor child. I note that while the deductible was higher than the limit set for the Commonwealth (\$5,500 rather than \$4,000 for a family), the out-of-pocket limit under the appellant's plan was significantly less than the Commonwealth's limit (\$11,000 rather than \$15,800). See Schedule HC 2019 Special Section on Minimum Creditable Coverage.

I determine that the health insurance coverage that Appellant had in 2019 substantially met the Commonwealth's minimum creditable coverage standards. The coverage was comprehensive. See 956 CMR 5.00 et. seq.

Given that the appellant's plan substantially met the Commonwealth's standards, the appellant's penalty is waived in its entirety. See 956 6.08(2)(d).

Appellant should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2019 appeal. Appellant should not assume that a similar determination will be made in the future should Appellant 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-204

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: August 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on June 22, 2020.

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 May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, undated
- Exhibit 4: Notice of Lawsuit Alleging Unpaid Overtime Wages
- Exhibit 5: Emails from Appellant to and from AV, dated 5/2/19
- Exhibit 6: Texts from Appellant to and from AV and HB, HR, dated 5/2/19-7/2/19
- Exhibit 7: National Grid Termination Notice 2, dated May 30, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in August 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Worcester County, MA in 2019. (Exhibit 2)

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

3. The Appellant's Federal Adjusted Gross Income for 2019 was \$24,578.00. (Exhibit 2)
4. The Appellant did not have health insurance during any months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment. (Exhibits 2 – 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$24,578.00, could afford to pay \$86.02 per month for government-subsidized health insurance. In accordance with Table 4, the Appellant, age 24 living in Worcester County, could have purchased private market health insurance for \$257.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer, for whom Appellant did security guard work on an hourly basis, offered health insurance at a monthly cost of at least \$130. (Appellant's Testimony). This is more than the \$86.02 per month deemed affordable in accordance with Table 3 of Schedule HC for 2019. Thus, the Appellant could not afford employer-sponsored insurance.
9. The Appellant would have been income-eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's income of \$24,578.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. Exhibit 2 and Table 2 of Schedule HC for 2019.
10. The Appellant's pre-tax monthly income was \$2,048 although Appellant's actual monthly income varied because Appellant's employer owed Appellant back wages and Appellant's monthly hours fluctuated. (Appellant's Testimony). The Appellant's 2019 monthly living expenses of \$917 included: rent - \$468, utilities - \$172, car insurance - \$130, internet – \$47 and food - \$100. (Appellant's Testimony).
11. During tax year 2019, the Appellant and Appellant's roommate received a Termination Notice 2 from NationalGrid. (Exhibit 7). Additionally, Appellant was late paying rent on several occasions because of Appellant's employer's chronic errors and tardiness paying Appellant's correct wages. (Exhibit 6 and Appellant's Testimony). Appellant was forced to find a second job to supplement Appellants' income as a security guard and to work seven days per week in order to meet Appellant's living expenses. (Appellant's Testimony).

12. Appellant has a new employer and is currently uninsured.²

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal citing a shut off notice and testifying about other financial hardships in 2019. (See Exhibits 3, 5-7 and Appellant’s Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$24,578.00, could afford to pay \$86.02 per month for government-subsidized health insurance. In accordance with Table 4, the Appellant, age 24 living in Worcester County, could have purchased private market health insurance for \$257.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

Appellant did not have access to affordable employer-sponsored insurance in tax year 2019 because the insurance his employer offered cost at least \$130 per month. This is more than the \$86.02 per month deemed affordable in accordance with Table 3 of Schedule HC for 2019.

The Appellant would have been income-eligible for ConnectorCare coverage in 2019 because the Appellant’s income of \$24,578.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2). However, that coverage, which is subsidized in part by an advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the federal Affordable Care Act, if

² The Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 if Appellant qualifies for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

employer-sponsored health insurance is offered and if the cost to the employee in 2019 is 9.86 percent or less of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR section 155.305(f). Calculating 9.86% of the Appellant's modified adjusted gross income of \$24,578.00 equals \$2,423.39 per year or \$201.95 per month. Since the employer-sponsored insurance offered to Appellant was \$130.00 per month, that offer was deemed affordable pursuant to the Affordable Care Act. The Appellant, therefore, was ineligible for ConnectorCare coverage because he was ineligible for any advance premium tax credit. Exhibit 1.

The Appellant had no access to affordable insurance coverage during 2019. No available coverage was available to him through employment, the non-group market and through ConnectorCare. There is no evidence in the record that the Appellant had access to any other government-sponsored programs.

Since no affordable coverage through the ConnectorCare program was available, the Appellant's 12-month penalty is waived in its entirety.

Even if affordable coverage had been available, the Appellant's penalty would be waived because of financial hardship. See 956 CMR 6.08(1) & (3).

Appellant's Federal Adjusted Gross Income for 2019 was \$24,578.00. The Appellant's pre-tax monthly income was \$2,048 although the monthly income Appellant actually received varied because Appellant's employer owed Appellant back wages and Appellant's monthly hours fluctuated. (Appellant's Testimony). The Appellant's 2019 monthly living expenses of \$917 included: rent - \$468, utilities - \$172, car insurance - \$130, internet - \$47 and food - \$100. (Appellant's Testimony).

The Appellant and Appellant's roommate received a Termination Notice 2 from NationalGrid. (Exhibit 7 and Appellant's Testimony). Additionally, the Appellant testified credibly that Appellant was late making certain monthly rent payments to Appellant's landlord because their employer made errors in calculating Appellant's hourly wage, owed Appellant back pay and was late in paying Appellant's wages. (Appellant's Testimony and Exhibits 5 and 6). Therefore, Appellant had to find a second job and work seven days per week in order to pay their living expenses. (Appellant's Testimony).

Based on all the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing health insurance for 2019 would have created a financial hardship for the Appellant that would have caused them to experience deprivation of basic living necessities. See 956 CMR 6.08 (1) & (3).

The Appellant's complete 12-month penalty is waived, first, because of unavailability of coverage and, second, even if affordable coverage had been available, purchasing health insurance would have caused Appellant financial hardship that deprived them of basic living necessities.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-205

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: July 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on June 22, 2020. At the outset of the hearing, the Appellant requested that their spouse be allowed to assist in representing Appellant at the telephone hearing. This request was granted. The procedures to be followed during the hearing were reviewed with Appellant and Appellant's spouse. Each individual was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant or Appellant's spouse.

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing, dated May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, dated 3/5/20
- Exhibit 4: Plymouth County Correctional Facility (PCCF) Release Report, Posted 1/14/20
- Exhibit 5: Certificate of Discharge PCCF undated
- Exhibit 6: Fee Agreement, dated August 20, 2018
- Exhibit 7: Notice to Report Wareham District Court, dated September 24, 2019
- Exhibit 8: Order of Probation Conditions, dated 8/19/20

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 56 years old in April 2019. The Appellant filed their Federal Income Tax Return as a married person filing separately with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Plymouth County, MA in 2019. (Exhibit 2)
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$30,805. (Exhibit 2)
4. Information from Schedule HC 2019 provided by the Massachusetts Department of Revenue (DOR) showed that the Appellant did not have health insurance for any months in tax year 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019 based on the Information from Schedule HC 2019. (Exhibit 2). The Appellant filed an appeal of this penalty assessment in March 2020. (Exhibits 2–8, Appellant's Testimony and Appellant's Spouse's Testimony).
6. The Appellant was incarcerated in a Plymouth County Correctional Facility from August 20, 2019 through the end of December 2019. (Appellant's Testimony and Exhibits 3-5). I take administrative notice of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet (Schedule HC Instructions) which state in relevant part, "other government health coverage' includes comprehensive government-subsidized plans such as care provided at a correctional facility." Based on this information, I find that the Appellant had government-subsidized health coverage that met Minimum Creditable Coverage (MCC) standards during the period of their incarceration in 2019. (2019 Schedule HC Instructions, p. HC-3).
7. The Appellant and Appellant's spouse, who assisted in completing Appellant's 2019 Schedule HC, experienced difficulty understanding the tax forms and instructions. (Appellant's Testimony and Appellant's Spouse's Testimony). I credit their testimony and conclude that when they completed Appellant's Schedule HC, they mistakenly indicated that Appellant had no health insurance coverage for twelve months in 2019, not understanding that Appellant had coverage during the period of their incarceration. (See Paragraph 6 above).
8. The Appellant worked for a small company from January 2019 until August 19, 2019. They were paid on an hourly basis, and their work hours fluctuated on a weekly basis. The Appellant's employer did not offer health insurance coverage during 2019. (Appellant's Testimony and Appellant's Spouse's Testimony).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 of the Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

10. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a married person filing separately, with no dependents claimed, with an annual adjusted gross income of \$30,805.00, could afford to pay \$128.35 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
11. The Appellant did not have access to affordable employer-sponsored insurance that met MCC standards in 2019. (See Schedule HC-2014, Table 2, Appellant's Testimony and Appellant's Spouse's Testimony).
12. Although Appellant's income of \$30,805 for the months they worked in 2019 (January through August) was less than 300% of the federal poverty level, which was \$36,420 in 2019, Appellant would not have been eligible for ConnectorCare coverage because they filed their income taxes as a married person filing separately rather than jointly with their spouse. (Exhibit 2 and Schedule HC for 2019).
13. Appellants' monthly pre-tax living expenses of \$2,234.00 included: mortgage payment - \$1,200, electricity - \$80, truck insurance - \$400, gas - \$80, train fare - \$200, food - \$240, water bill - \$34. Additionally, Appellant has outstanding legal bills of \$10,000, and significant additional costs relating to an eviction proceeding of a problematic roommate. (Appellant's Testimony, Appellant's Spouse's Testimony and Exhibits 3-8).
14. Appellant currently is unemployed because of the Covid-19 pandemic and is uninsured.² (Appellant's Testimony and Appellant's Spouse Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Based on the Schedule HC 2019, the Appellant did not have health insurance for any months in 2019 and has been assessed a twelve-month penalty. (Exhibit 2). The Appellant submitted a statement of grounds

² The Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 if Appellant becomes eligible for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

for this appeal citing their incarceration. (Exhibit 3 and Appellant's Testimony). Appellant and Appellant's Spouse also testified to financial hardship as a basis for the appeal. (Appellant's Testimony and Appellant's Spouse's Testimony).

Based on the language of the Schedule HC Instructions (see Paragraph 6 above), the Appellant had MCC-compliant health insurance coverage during the months of their incarceration (September through December 2019). Subtracting those four months from Appellant's twelve (12) penalty months leaves eight (8) months during which the Appellant was uninsured. Applying the three-month grace period to the eight (8) uninsured months prior to Appellant's incarceration leaves five (5) uninsured months (April through August) for which the Appellant would be assessed a penalty.

To determine if the five (5)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met MCC standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a married person filing separately, with no dependents claimed, with an annual adjusted gross income of \$30,805.00, could afford to pay \$128.35 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 56, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer-sponsored insurance that met MCC standards in 2019. (See Schedule HC-2014, Table 2, Appellant's Testimony and Appellant's Spouse's Testimony).

The Appellant would not have been eligible for ConnectorCare coverage during the months they worked in 2019 because, although their income of \$30,805 was less than 300% of the federal poverty level, which was \$36,420 in 2019, they filed their income taxes as a married person filing separately rather than jointly with their spouse. (See 45 CFR § 155.310(d)2(ii)(B)).

Given that affordable health insurance coverage that met minimum creditable coverage standards was not available to the Appellant through employment, through private insurance, or through a government-sponsored program for the months they worked in 2019, the Appellant is not subject to a tax penalty for those months. (See Schedule HC for 2019, Questions 10 – 12).

In summary, the tax penalty for Appellant's four months of incarceration is waived because they had insurance coverage during that time period, the penalty for three (3) of the remaining eight (8) uninsured months is subject to the three-month grace period, and the penalty for the remaining five (5) months Appellant was uninsured is waived because no affordable health insurance was available to them during those months. Thus, the twelve-month penalty is waived in its entirety.

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

PENALTY ASSESSED

Number of Months Appealed: ___12___ Number of Months Assessed: ___0___

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-206

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 22, 2020

Decision Date: August 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on June 22, 2020.

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 May 26, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal, dated 3/6/20
- Exhibit 4: Appellant's Letter supporting appeal, dated 3/15/20
- Exhibit 5: Copies of five payments for uninsured medical expenses

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 33 years old in May 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Nantucket County, MA in 2019. (Exhibit 2)
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$76,992.

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

4. The Appellant did not have health insurance during any months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020. (Exhibits 3 – 4 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$76,992, could afford to pay \$513.28 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 33 living in Nantucket County, could have purchased private market health insurance for \$421.00 per month. (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant's employer offered health insurance at a cost of \$500 monthly in 2019. (Appellant's Testimony and Exhibit 4). Employer-sponsored insurance that met minimum creditable coverage was affordable to the Appellant under Table 3 of Schedule HC for 2019.
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because of the availability of affordable employer-sponsored insurance. Additionally, the Appellant's income of \$76,992 was more than two times 300% of the Federal Poverty Level for 2019, which was \$36,420. (Table 2 of Schedule HC for 2019 and Exhibit 2).
10. The Appellant's 2019 monthly living expenses of approximately \$2,625 included: rent - \$2,000, gas - \$175, electricity - \$50, telephone - \$100, internet - \$100, and food - \$250. (Appellant's Testimony).
11. Additionally, in 2019 the Appellant sent home about \$20,000 throughout the year to help support their aging parents who live in Southeast Europe. (Appellant's Testimony). I credit Appellant's Testimony.
12. Appellant paid uninsured, out-of-pocket medical bills amounting to \$874.50 during 2019. (Exhibit 5 and Appellant's Testimony).
13. Appellant testified that as a relatively new resident of Massachusetts, they did not understand the Massachusetts individual mandate requirements, and once they did understand, they expressed an intention to obtain health insurance coverage. (Appellant's Testimony). Appellant testified that sometime during 2019, they contacted the Health Connector and believed they were told health insurance coverage would cost them \$750 monthly, which was unaffordable. (Appellant's Testimony). I credit the Appellant's testimony on these points.

14. Given the seasonal nature of Appellant's delivery work on Nantucket Island and their fluctuating hours and wages, the Appellant often had to work two or three different delivery jobs in-season in order to meet their living expenses and to help support Appellant's aging parents. Off-season was approximately the months of January through April and November and December. (Appellant's Testimony).
15. The Appellant currently does not have health insurance coverage. (Appellant's Testimony). They do not have a record of having previously appealed a tax penalty. (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2, also called the "individual mandate", requires every adult resident of Massachusetts to obtain 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 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant did not have health insurance for any months during tax year 2019 and has been assessed a twelve-month tax penalty. The Appellant submitted a letter and testified as grounds for this appeal that insurance was not affordable, Nantucket is an expensive place to live and Appellant often had to work multiple jobs given the seasonal nature of their work in order to cover expenses and financially support their aging parents who live in Southeast Europe (Exhibit 4 and Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$76,992 could afford to pay \$513.28 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 33, living in Nantucket County, could have purchased private market insurance plan for \$421 per month. (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant had access to affordable employer-sponsored insurance in 2019 based on Table 3 of Schedule HC for 2019. Since affordable employer-sponsored insurance was available to the Appellant in 2019, it must be determined whether Appellant experienced financial hardship pursuant to 956 CMR 6.08.

The Appellant's adjusted gross income was \$76,992 in 2019. Their monthly pre-tax living expenses of \$2,625 multiplied by 12 equals annual pre-tax living expenses of \$31,500.00. Adding to that amount the \$20,000 that Appellant sent to support their aging parents living in Europe totals \$51,500 annually.

Although Appellant experienced a substantial increase in expenses relating to the financial support of their aging parents living in Europe (see 956 CMR section 6.08(1)(d)(3)), based on their annualized income calculations, it would appear that Appellant could still afford to purchase health insurance coverage of \$500 monthly (employer-sponsored) or \$421 monthly (non-group market). I conclude, however, that Appellant's annualized income obscures the seasonal nature of their work and the fluctuation in Appellant's hours and wages. Those seasonal and hourly fluctuations necessitated that they work three jobs during peak season on Nantucket in order to meet their living expenses and to provide substantial financial assistance to their aging parents who live in Europe. I conclude that purchasing health insurance would have caused Appellant a financial hardship, particularly during the off-season months. 956 CMR section 6.08(1)(d)(3) & (e). Additionally, the Appellant testified they did not understand the individual mandate requirements and expressed an intention to obtain health care coverage once they understood the mandate. I credit Appellant's testimony on these points. See 956 CMR 6.08 (3). Appellant does not have a record of having previously appealed a tax penalty. Based on the totality of these circumstances as evidenced in the administrative record, I conclude that waiving the twelve-month penalty is warranted.

The Appellant should note that the waiver of their penalty is based upon specific facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance.²

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

² The Appellant is advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 or on-line at MAhealthconnector.org if Appellant's employment circumstances change significantly during 2020 in order to determine if Appellant becomes eligible for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-217

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: June 24, 2020

Decision Date: August 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 24 during 2019, from Middlesex County, filed single on the tax return with a family size of 1 (Exhibit 2).
2. Appellant did have health insurance through the employer for all of 2019. (Appellant's testimony, Exhibit 3).
3. Appellant came to Massachusetts in July 2019. Appellant had health insurance through the employer but was not sure they received a 1099-HC. (Appellant testimony Exhibit 3).
4. Appellant's Federal Adjusted Gross Income for 2019 was \$81,716.00 (Exhibit 2).
5. Appellant continues to have health insurance through the employer. (Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$544.00.
8. Private insurance was affordable for the Appellant in 2019 (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds they had health insurance, and also that they moved to Massachusetts in July 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and also Appellant did not receive a shut-off notice for basic utilities. (Appellant Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$81,716.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$544.00 per month; according to Table 4, Appellant, who was 24 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had health insurance through the employer that met minimum creditable coverage. They also claimed that they did not move to Massachusetts until July 2019. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19288

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 23, 2020

Decision Date: August 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 23, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 7, 2020 with note in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated June 12, 2020 for July 23, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 37 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Berkshire County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$35,820 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was a seasonal worker. In 2019, he was unemployed from January through April. When his work started up in May, and at the end of the season in November and December, he worked about 20 to 30 hours a week. From June through October, he worked about 40 hours a week. He was paid \$17.00 an hour. When Appellant was unemployed, he received unemployment compensation. He received \$390 a week (Testimony of Appellant).

5. Appellant was not offered health insurance through his job. The company he worked for is small with few employees and does not offer benefits (Testimony of Appellant).
6. Appellant tried to obtain health insurance several times. He thought he might be eligible for MassHealth, but he was not (Testimony of Appellant).
7. Appellant obtained health insurance coverage as of February 1, 2020 (Testimony of Appellant).
8. Appellant has been assessed a penalty for twelve months. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$35,820 could afford to pay \$149 per month for health insurance. According to Table 4, Appellant, 37 years old and living in Berkshire County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
11. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
14. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
15. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$0.00 (he lived in a building owned by his father); water- \$50; heat-\$150 on average; electricity-\$60 on average; telephone and internet-\$270; food-\$600; car payment-\$215; car insurance-\$65; gas-\$100. Appellant also paid \$400 for repairs to the apartment he lived in, \$200 for dental care, and \$500 to pay off old credit card debt (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed for a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of February, 2020. Since Appellant is entitled to a three-month grace period before obtaining coverage at the beginning of February, his penalty for November and December, 2019 is waived. See the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$35,820 could afford to pay \$149 per month for health insurance. According to Table 4, Appellant, 37 years old and living in Berkshire County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for him. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

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

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$35,820, less than the income limit for one person (\$36,420). He also had no access to employer-sponsored insurance. See 956 CMR 12.04 (3).

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

Appellant had the following expenses for basic necessities in 2019: rent-\$0.00 (he lived in a building owned by his father); water- \$50; heat-\$150 on average; electricity-\$60 on average; telephone and internet-\$270; food-\$600; car payment-\$215; car insurance-\$65; gas-\$100. Appellant also paid \$400 for repairs to the apartment he lived in, \$200 for dental care, and \$500 to pay off old credit card debt. See the testimony of Appellant, which I find to be credible.

Appellant was unemployed January through April. He collected \$1,560 in unemployment compensation benefits. In May, November, and December, Appellant worked part-time and earned about \$1,700 before taxes. The rest of the year, Appellant earned about \$2,70 before taxes. His work was seasonal and he was paid by the hour. Appellant's monthly expenses came to \$1,610. Seven months of the year, Appellant ran a deficit (if we consider that he had to pay some amount of taxes). The rest for the year, while he earned more, he was not assured full-time work. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. Appellant's income varied while expenses stayed the same throughout the year. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 6.08(3) which allow the consideration of Appellant's inconsistent income.

I also note that Appellant obtained health insurance as of February, 2020.

Appellant's penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19290

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 23, 2020

Decision Date: August 12, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 23, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 5, 2020 with list of monthly expenses, cost of purchasing health insurance through employment, and biweekly paystub, 9/2019
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated June 12, 2020 for July 23, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 26 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$45,354 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed as a college coach from January through September, 2019. Her biweekly gross pay was \$1,461. After taxes, Appellant received about \$1,100 every two weeks. Appellant was offered health insurance through this job. The cost would have been \$220 a month for the appellant. Appellant did not enroll because she thought she could not afford the cost (Testimony of Appellant, Exhibit 1 attachment).

5. In October, Appellant took a new job which paid considerably more. She received a signing bonus of \$2,500 and a higher salary. Her gross biweekly pay increased to \$2,150. She was also offered a health insurance plan through her new job which she enrolled in. Appellant had coverage which met the Commonwealth's standards in November and December (Testimony of Appellant, Exhibit 2).
6. Appellant has been assessed a penalty for seven months, January through July. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$45,354 could afford to pay \$287 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Suffolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. However, from January through July, Appellant was earning at a rate of \$38,000 a year. At that income, Appellant could afford to pay \$235 a month. The cost would have remained the same, so from January through July, insurance on the individual market would have been unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).
9. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
10. The insurance offered to Appellant through her job which she had to from January through September would have cost the appellant \$220 a month. This would have been affordable for the appellant (See Exhibit 1 attachment, Schedule HC, Table 3, 2019).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
13. Appellant had her cellphone shut off several times during 2019 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$800; heat and electricity-25; telephone-\$92; food-\$800; transportation-\$90; clothing-\$250. In addition, Appellant sent \$200 a month back to her country of origin for the support of her brother and grandmother; Appellant also spent \$122 a month for treatment of chronic back pain (Testimony of Appellant, Exhibit 1 attachment).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed a penalty for seven months, January through July, 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards during November and December, 2019. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, Appellant’s penalty for August through October is waived. See Exhibit 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$45,354 could afford to pay \$287 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Suffolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. However, from January through July, Appellant was earning at a rate of \$38,000 a year. At that income, Appellant could afford to pay \$235 a month. The cost would have remained the same, so from January through July, insurance on the individual market would have been unaffordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant.

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

Appellant had access to health insurance through the job she had from January through September, 2019. She was offered coverage which would have cost her \$220 a month. See the testimony of the appellant which I find to be credible. According to Schedule HC for 2019, Tables 3 and 4, at the salary she was earning, she could have afforded to pay \$235 a month. The coverage was affordable for her.

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

Appellant had the following monthly expenses for basic necessities in 2019: rent-\$800; heat and electricity-25; telephone-\$92; food-\$800; transportation-\$90; clothing-\$250. In addition, Appellant sent \$200 a month back to her country of origin for the support of her brother and grandmother; Appellant also spent \$122 a month for treatment of chronic back pain. See Exhibit 1 attachment, and the testimony of Appellant, which I find to be credible.

Appellant’s expenses amounted to about \$2,400 a month if we include the support she gave family members and treatment for chronic back pain. From January through September, Appellant earned about \$2,900 gross a month.

After taxes, her take-home pay was about \$2,300 a month. Appellant ran a deficit every month, and could not have afforded the cost of health insurance, \$220 through employment each month.

In addition, Appellant had her cell phone turned off several times during the year. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her during the months January through September. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). See also 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing and 956 CMR 6.08(1)(b) which allows consideration of shut-offs of basic utilities.

Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-296

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 24, 2020

Decision Date: August 3, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 12, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 29, 2020.
- Exhibit 4: A letter written by the Appellant in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 28 years old in August 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$62,457 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. The Appellant testified that they had looked in to purchasing health insurance through the Health Connector, but the monthly premiums were \$500-\$600 and not affordable (Appellant Testimony).
8. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$62,457 could afford to pay \$416 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Suffolk County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
9. The Appellant testified that their employer did not offer health insurance in tax year 2019 (Appellant Testimony).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Appellant Testimony).
11. The Appellant lives in shared housing with their partner. The Appellant's 2019 monthly living expenses included: rent-\$800, utilities-\$100--\$200; telephone-\$60-\$70; car insurance-\$100; gasoline-\$130 and food-\$433. The Appellant explained that they own two dogs and a horse. The expenses for care of the horse are approximately \$1,000 monthly. The Appellant also indicated that they are trying to save money to buy a farmhouse to start a horse farm program in their local community (Exhibit 4 and Appellant Testimony).
12. In tax year 2019 the Appellant did not face eviction, did not receive any utility shut off notices, did not incur a significant and unexpected increase in expenses due to a natural or human caused disaster and did not incur significant expenses as a result of a family emergency (Appellant Testimony).
13. Given the Appellant's average monthly income of \$5,205, living expenses of \$1,733¹ and the fact that private insurance was available at a cost of \$257 per month, the Appellant has failed to demonstrate that purchasing health insurance would have caused the Appellant to experience financial hardship even considering the monthly horse expenses of \$1,000.

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

¹ Using the highest monthly utility and telephone expenses quoted by the Appellant.

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal and checked the box “other” citing circumstances other than financial hardship as their reason for failing to have health 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.

The Appellant testified that they looked into purchasing health insurance through the Health Connector, but the plans cost between \$500 and \$600 monthly. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$62,457 could afford to pay \$416 per month for health insurance. In accordance with Table 4, the Appellant, age 28, living in Suffolk County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant testified that they did not have access to affordable employer sponsored insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant’s income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant’s 2019 adjusted gross income was \$62,457. The Appellant lived with a partner and testified to monthly living expenses totaling \$1,733. In addition to these expenses the Appellant owns a horse and two dogs and indicated that the monthly cost to care for the horse was \$1,000. The Appellant indicated in their letter that they were attempting to save money to purchase a farmhouse and start a horse farm program in their local community.

The Appellant was not facing eviction, did not receive any utility shut off notices and did not incur significant and unexpected expenses due to a family emergency, natural or other human caused disaster. Given that in accordance with Table 4 of Schedule HC for 2019, the Appellant could have purchased private health insurance for as low as \$257 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant’s twelve-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-297

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 24, 2020

Decision Date: August 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 12, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 27, 2020, with attachments.
- Exhibit 4: Health Connector Appeals Unit Open Record form dated July 24, 2020.
- Exhibit 5: Additional information submitted by the Appellant on August 11, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 34 years old in June 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Norfolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$32,819 (Exhibit 2 and Appellant Testimony).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$32,819 could afford to pay \$137 per month for health insurance. In accordance with Table 4, the Appellant, age 34, living in Norfolk County, could have purchased private insurance for \$279 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they live with a partner. The Appellant stated that the couple adopted a family member who was in the custody of the Department of Children and Families in October 2019. The Appellant explained that in addition to day to day living expenses the family had additional expenses associated with the legal process and care of this family member. The Appellant said that because their partner handles paying the monthly bills, they were unsure of the breakdown in expenses. The Appellant indicated that their expenses were high, and they struggled to meet them with their limited income (Exhibit 3 and Appellant Testimony).
11. The record was left open until August 10, 2020 to allow the Appellant to submit additional information regarding their monthly expenses (Exhibit 4).
12. The Appellant submitted a detailed breakdown of the household living expenses. The Appellant's partner reported that the couple share the expenses equally. The Household's 2019 monthly expenses were: mortgage-\$1,870; water and sewer-\$100; gas heat-\$150; electricity- \$200; telephones-\$250; two vehicle loans-\$952; car insurance-\$300; cable/internet-\$250; home insurance-\$202; appliance warranty payment-\$70; gasoline-\$250; food-\$600; student loans-\$220; self-storage unit-\$180; and credit card payments of \$600 and household needs of \$400. The Appellant's share of these monthly expenses totaled \$3,297 (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$32,819 could afford to pay \$137 per month for health insurance. According to Table 4, the Appellant, age 34, living in Norfolk County, could have purchased a private insurance plan for \$279 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant lives with a partner. The couple adopted a child in October 2019. This resulted in an increase in expenses for the family. The family verified substantial monthly living expenses the Appellant shares with their partner. The Appellant’s share of these expenses exceeds their monthly income. The Appellant testified that they struggled to meet their share of expenses with their limited income. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant’s twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-310

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 16, 2020
Decision Date: August 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 16, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated June 15, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 21, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 53 years old in 2019. Appellant filed a Massachusetts 2019 tax return as married filing separate with no dependents claimed (Exhibit 2).
2. Appellant resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$61,512 (Exhibit 2).
4. Beginning in early 2019, Appellant had numerous serious health conditions, which affected Appellant's ability to perform Appellant's job (Testimony of Appellant).
5. Appellant's job during January through July did not offer employer sponsored health insurance (Testimony of Appellant).
6. Appellant began a new job in July and Appellant was enrolled in employer sponsored health insurance for September and October (Exhibit 2 and Testimony of Appellant).
7. Appellant was unable to perform all of the required duties at the new job and lost the job in October 2019 (Testimony of Appellant).
8. Appellant lost the employer sponsored health insurance in November 2019 (Exhibit 2 and Testimony of Appellant).

9. Appellant was unemployed in November and December 2019 and was still unemployed at the time of the hearing (Testimony of Appellant).
10. During 2019, Appellant had the following expenses for basic necessities: rent \$1,775; utilities \$900; telephone \$75; food \$650; clothing \$200; car payment \$275; car insurance \$200; gasoline \$217; medical expenses \$467. Appellant's expenses for necessities were \$4,759.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
12. According to Table 3 of Schedule HC for 2019 a person filing as married filing separate with no dependents with an adjusted gross income of \$61,512 could afford to pay \$410 per month for private insurance. According to Table 4, Appellant, aged 53 and living in Norfolk County could have purchased private insurance for \$406 per month.
13. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
14. Appellant, earning more than \$36,420 would not have been income eligible for government subsidized health insurance (Schedule HC for 2019).
15. Appellant did not have health insurance from January through August and in November and December 2019 (Testimony of Appellant and Exhibit 2).
16. Appellant has been assessed a penalty for five months for 2019 (Exhibit 2).
17. Appellant filed a hardship appeal in March 21, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

From January through July, Appellant worked at a job where employer sponsored health insurance was not available. Appellant was covered by employer sponsored health insurance during September and October. After October, Appellant was unemployed and did not have health insurance. Appellant was considered to be able to afford private insurance. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship.

During 2019, Appellant had serious medical issues that impacted Appellant's ability to work. Although Appellant started a new job in July, Appellant was unable to perform the duties of the new job and became unemployed in

November 2019. During 2019, Appellant's monthly expenses were \$4,759. Appellant's monthly income before taxes was \$5,126. The addition of the cost of private health insurance at \$406 would have made Appellant's expenses more than Appellant's income. I find that the purchase of health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing or other necessities. See Schedule HC for 2019, Tables 2, 3 and 4, 956 CMR 6.08 (1) (e) and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-312

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 16, 2020
Decision Date: August 10, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Notice of Hearing from Health Connector, dated June 15, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 24, 2020
- Exhibit 4: Documents in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 35 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$38,079 (Exhibit 2).
4. Appellant did not work set hours in Appellant's job and employer sponsored health insurance was not available (Testimony of Appellant).
5. Appellant looked at health insurance through the Health Connector but did not sign up due to the cost (Testimony of Appellant).
6. During 2019, Appellant struggled to pay the monthly expenses. In addition to rent, utilities and food, Appellant was required to pay \$800 per month for student loans (Testimony of Appellant).
7. During 2019, Appellant received shutoff notices for electricity (Exhibit 4 and Testimony of Appellant).
8. In late 2019, Appellant began a new position and began employer sponsored health insurance in January 2020 (Testimony of Appellant).

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

10. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$38,079 could afford to pay \$236 per month for private insurance. According to Table 4, Appellant, aged 35 and living in Middlesex County could have purchased private insurance for \$286 per month.

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

12. Appellant, earning more than \$36,420 would not have been eligible for government subsidized health insurance (Schedule HC for 2019).

13. Appellant did not have health insurance for the entire year of 2019 (Testimony of Appellant and Exhibit 2).

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

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant did not have access to employer sponsored health insurance. Appellant was not considered to be able to afford private health insurance. Appellant also was not considered eligible for government subsidized health insurance. See Massachusetts Schedule HC 2019, Tables 2, 3, 4, Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

I find that affordable health insurance that met the Massachusetts standards was not available to Appellant in 2019. See 956 CMR 6.00.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-332

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 23, 2020
Decision Date: August 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 23, 2020. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated June 18, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 19, 2020
- Exhibit 4: Documents in support of appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 48 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with one dependent claimed (Exhibit 2).
2. Appellant resided in Barnstable County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$37,386 (Exhibit 2).
4. Appellant had been covered by government subsidized health insurance in 2018 (Testimony of Appellant).
5. Appellant renewed the 2018 coverage for 2019, and Appellant was determined eligible for a ConnectorCare Plan (Exhibit 4).
6. Appellant believed that the cost of the plan for 2019 was zero due to overpayments from the prior year (Testimony of Appellant).
7. Appellant did not send any payments to the Health Connector in 2019 (Testimony of Appellant).
8. Appellant did not contact the Health Connector in 2019 to discuss payment or billing (Testimony of Appellant).
9. Appellant struggled to pay for basic expenses in 2019 (Testimony of Appellant).

10. During 2019, Appellant had the following expenses for basic necessities: mortgage \$1,750; utilities \$250; home maintenance \$208; telephone \$90; food \$250; supplies \$60; clothing \$133; car insurance \$92; gasoline \$130; car maintenance \$79; dental \$92; family emergency \$92. Appellant's expense for necessities were \$3,226.
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
12. Appellant, earning less than \$49,380 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
13. Appellant did not have health insurance for eleven months in 2019 (Testimony of Appellant and Exhibit 2).
14. Appellant has been assessed a penalty for eight months for 2019 (Exhibit 2).
15. Appellant filed a hardship appeal on March 19, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was income eligible for government subsidized health insurance and was enrolled in government subsidized health insurance in 2018 and in January 2019. Affordable health insurance was available to Appellant for 2019. Appellant struggled to pay the monthly bills during 2019. Appellant had monthly expenses of \$3,226. Appellant's pre-tax income was \$3,116 per month. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant should note that this decision is based upon the facts as I have found them for 2019 and that such a decision may not be made in the future if Appellant fails to have health insurance.

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-340

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 24, 2020

Decision Date: August 3, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 22, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 13, 2020, with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 36 years old in July 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$21,930 (Exhibit 2 and Appellant Testimony).
4. The Appellant but did not have health insurance for the months of June through December in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$21,930 could afford to pay \$53 per month for health insurance. In accordance with Table 4, the Appellant, age 36, living in Hampden County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a single person in 2019 and (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant testified that they had free health insurance through MassHealth beginning in 2018 and continuing through May in tax year 2019. The Appellant explained that they were not aware that their MassHealth coverage was terminated in June until they met with a tax preparer in January 2020 and the tax preparer informed them their MassHealth had been terminated. The Appellant said that they changed addresses in 2019 and never received any notice from MassHealth. The Appellant indicated that they had their last medical appointment in late winter of tax year 2019 and had no reason to know their coverage ended because they did not access health care services for the rest of the year. I found the Appellant to be credible (Appellant Testimony).
10. The Appellant's 2019 monthly living expenses included: rent-\$600; phone-\$50; a bus pass-\$50; food-\$217 and clothing-\$50 (Appellant Testimony).
11. The Appellant is currently receiving MassHealth (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their return as a single person with no dependents. The Appellant did not have health insurance for the months of June through December in tax year 2019. The Appellant has been assessed a four-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship and other circumstances. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to

the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$21,930 could afford to pay \$53 per month for health insurance. According to Table 4, the Appellant, age 36, living in Hampden County, could have purchased a private insurance plan for \$286 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

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

The Appellant testified that they applied for MassHealth in tax year 2018 and had this insurance through May in tax year 2019. The Appellant's MassHealth ended in June 2019 and the Appellant testified credibly that they were unaware of this change in circumstance. The Appellant explained that they did not know about the termination of coverage until January 2020 when they were informed by their tax preparer that they did not have health insurance for the period of June through December. The Appellant explained that they had a medical appointment in late winter of 2019 and did not access medical treatment for the rest of the year. As a result of this and the fact that the appellant had a change of address in 2019, the Appellant was not on notice that their health insurance coverage had been terminated. The Appellant had limited income in tax year 2019 and had monthly significant living expenses. Under these circumstances, the Appellant's four-month penalty is waived. See 956 CMR 6.08(3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-342

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 27, 2020
Decision Date: August 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 27, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on undated. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence Employer Insurance Eligibility Policy undated (1 PP).
- Exhibit 2(b) Appellant's Supporting Documentation dated March 26, 2020 (3 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 6/22/20 (2 PP).

The record was left open until August 14, 2020 for the Appellant to submit proof of insurance coverage through his Parent's Insurance. The Appellant submitted the following:

- Exhibit 4: 2019 Form MA 1099-HC Documentation regarding Proof of Appellant's Coverage through Appellant's Parents submitted on July 30, 2020 (1P).
- Exhibit 5: Appellant's CHA Card submitted on July 30, 2020 (1P).
- Exhibit 6: Correspondence to the Appellant from Health Plans, Inc. regarding 1099HC submitted on July 30, 2020(1P).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 26 in 2019, lived in Middlesex County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant was covered under his parents' health insurance until July when he turned twenty-six (26) years of age. (Exhibit 4, Testimony of Appellant).
3. Appellant testified he started a new job in August 2019, and that he was not eligible to enroll in coverage and begin coverage until January 2020. (Testimony of Appellant, Exhibits 1, 2(a), (b), 5 and 6).

4. Appellant's Federal Adjusted Gross Income for 2019 was \$43,106 (Exhibit 1).
5. Appellant has been assessed a tax penalty for eight (8) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
6. According to Table 3 Appellant could have afforded \$273 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
7. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for Eight (8) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant did submit grounds with his appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because of Other, that During 2019 other circumstance, that he was unable to obtain government subsidized insurance even though their income qualified him. The Appellant included correspondence with the appeal and testified credibly that he had insurance during part of the time (January-July 2019) he was being penalized through his parent's health insurance plan. (See Exhibits 2 and 4).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that he had health insurance through his parent's health insurance. (Testimony of Appellant, Exhibit 4).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$43,106 in 2019 and could have afforded \$273 per month. According to Table 4, Appellant, age 26 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

Appellant testified credibly that he had insurance during a portion of the time he was being penalized through his Parent's health insurance. (Testimony, Exhibit 4). The twenty-six (26) year-old Appellant credibly testified that he

changed employment in August and was not eligible to enroll in employer coverage until December with a coverage in January 2020. I determine that pursuant to 956 CMR 6.08 (3), the Appellant had health insurance during January-July 2019 and for those months for which he is being penalized.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-343

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 27, 2020
Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 27, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/10/20. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation 2019 Form 1-NR/PY (10PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 6/10/20 (2 PP).

The record was left open until August 14, 2020 for the Appellant to submit proof of permanent residency. The Appellant submitted the following:

- Exhibit 4: Rental Application with proof of occupancy dated 9/22/2019. (1 Page).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 53 in 2019, lived in Middlesex County, and had no dependents. (Appellant's Testimony, Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$34,290 (Exhibit 1).
3. Appellant testified he moved to Massachusetts from California in July 2019. (Appellant's Testimony).
4. Appellant testified he was insured when he resided in California. (Appellant's Testimony).
5. Appellant testified he became arrived in Massachusetts in August 2019. (Appellant's Testimony).

6. Appellant testified he stayed in Air BnB's and did not establish a permanent address until September 2019. (Appellant's Testimony, Exhibit 4).
7. Appellant testified he was unemployed since June and worked in a temporary job without health insurance when he arrived in Massachusetts. (Appellant's Testimony).
8. Appellant did not know that Massachusetts had a mandate tax penalty. (Appellant's Testimony).
9. Appellant now has full time employment and has health insurance that went into effect at the end of March 2020. (Appellant's Testimony).
10. Appellant had the following monthly expenses for necessities in 2019: Rent: \$1,000, Car Payment \$447, Cell Phone \$108, Gas \$140, Credit Cards \$400, Food/Incidentals: \$200: totaling \$2,295/month. (Appellant's Testimony).
11. Appellant has been assessed a tax penalty for three (3) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$ 216.80 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$406 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant did not check off any grounds when he submitted the appeal appeal (Ex. 2) claiming: During his testimony, the Appellant raised testimony that he moved to Massachusetts in July 2019 from California and established permanent residency in September.

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

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$34,920.00 in 2019 and could have afforded \$216.80 per month to purchase affordable insurance. According to Table 4, Appellant, age 53 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for 406.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

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

The Appellant credibly testified that he arrived in Massachusetts in July, established permanent residency in September, and was unemployed when he arrived. He credibly testified he was employed on a temporary basis in 2019 without access to Employer Sponsored Insurance. (Appellant's Testimony).

The Appellant credibly testified that he had the following monthly expenses for necessities in 2019: Rent: \$1,000, Car Payment \$447, Cell Phone \$108, Gas \$140, Credit Cards \$400, Food/Incidentals: \$200: totaling \$2,295/month.

Based on the foregoing, it is concluded that where the Appellant did not establish permanent residence in Massachusetts until September 2019, and thus he is exempt from purchasing health insurance where a three-month grace period allows the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies.

Notwithstanding the three-month waiver, the Appellant was unemployed, subsequently retained temporary employment, and given his monthly expenses of \$2,295, the cost of purchasing insurance for \$216.80 would have presented a hardship. Therefore, based upon the totality of the evidence, it is concluded that the Appellant did establish through substantial and credible evidence that he did experience other circumstances including a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). Accordingly, it is concluded that the Appellant was exempt from the individual mandate and his request for a waiver from the penalty is granted. The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, he may want to contact the Connector to find out if he is now eligible for a Connector Plan or ConnectorCare. He is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA19-344

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 27, 2020
Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 27, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2019 Signed by Appellant on 2/08/20.	(2 PP).
Exhibit 2(a)	Appellant's Supporting Correspondence/Documentation submitted with the Appeal	(10 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/10/20	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 48 in 2019, lived in Suffolk County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant worked as a child caretaker and was not offered health insurance. (Testimony of Appellant).
3. Appellant testified she investigated obtaining insurance through the Connector but the premiums in the amount of approximately \$250-300 a month were unaffordable. (Appellant's Testimony).
4. Appellant testified that she was on ConnectorCare in 2018 but because of a slight income change and mistake. her premium increased by almost \$300 for which she was unable to afford given her other monthly basic necessity expenses. (Appellant's Testimony, Exhibit 2(b)).
5. Appellant testified that the added expense of purchasing coverage was not feasible. (Testimony of

Appellant).

6. Appellant's Federal Adjusted Gross Income for 2019 was \$45,760(Exhibit 1).
7. Appellant testified her average net take home pay was approximately \$2,700 per month. (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for eight (8) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$900, Utilities \$100, Cell Phone \$30, Car Payment \$600, Car insurance \$200, Credit Cards \$500, Gas \$240, Food \$240, totaling: \$2,810. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$289.91 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$350.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for eight (8) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with her appeal that that the expense of purchasing health insurance was not affordable to her because the expense of purchasing health insurance would have also caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibit 2).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If

affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant credibly testified that she did not have access to employer sponsored insurance. (Testimony of Appellant).

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$45,760 in 2019 and could have afforded \$289.91 per month. According to Table 4, Appellant, age 48 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$350.00 per month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

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

The Appellant credibly testified that she had the following monthly expenses for basic necessities in 2019: Rent: \$900, Utilities \$100, Cell Phone \$30, Car Payment \$600, Car insurance \$200, Credit Cards \$500, Gas \$240, Food \$240, totaling: \$2,810.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the Appellant's monthly net pay of approximately \$2,700 would be subsumed in her monthly expenses of \$2,810 per month. She was not able to afford \$289.91 per month for the cost of an individual plan. It is concluded that the Appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-346

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 27, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 27, 2020. The Appellant Spouse was not present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 3/15/20. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence submitted with the Appeal (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 6/10/20 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 2, with no dependents. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$76,564 (Exhibit 1).
3. Appellant Husband attempted to add the Appellant to his Connector plan in 2018 after they were married in 2017 but could not afford the premiums. (Testimony, Exhibit 2(a)).
4. Appellants applied for Connectorcare in 2019 but did not qualify for a tax credit and the premium would have been \$1,200 per month which they could not afford. (Testimony, Exhibit 2(a)).
5. Appellant's were able to obtain insurance through the Connector until December 2019 with an affordable premium of \$591.62. (Testimony, Exhibit 2(a)).
6. Appellant Husband was not offered health insurance from his employer. (Testimony, Exhibit 2(a)).
7. Appellant Wife worked part time and was not offered health insurance from her employer.

8. Appellant testified their combined net take home pay was approximately was \$1,086 per week, or \$4,669.80 per month. (Testimony).
9. Appellants had the following monthly expenses for basic necessities in 2019: Mortgage: \$1,800, Utilities \$340, Water \$29, Cell Phone \$50, Car Insurance \$108, Gas \$ 130, Food \$800, Credit Cards \$400, totaling 3,657. (Testimony of Appellant).
10. Appellants testified they had substantial out of pocket prescriptions and medical expenses but did not provide documentation to substantiate same.
11. Appellants have each been assessed a tax penalty for twelve (12) months in 2019. The Appellants have appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellants could have afforded \$510.42 per month for health insurance for in 2019. According to Table 4 Appellants could have purchased insurance for \$750 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. The Appellants have each been assessed a tax penalty for twelve (12) months in 2019. The Appellant Wife has not been assessed a penalty. The Appellants have appealed the penalty. (See Exhibits 1 and 2).

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

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

The Appellants credibly testified that employer sponsored health insurance was not available to them. The Appellants testified that they investigated insurance options through the government sponsored insurance, but the monthly premiums were unaffordable.

To determine if Appellants’ penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we

must determine if such insurance was, in fact, not affordable to the Appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$76,564.00 in 2019 was more than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two, and the Appellants could have afforded \$510.42 per month to purchase affordable insurance. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which they can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with zero (0) dependents with a federal adjusted gross income of \$76,564.00 and higher is deemed to be able to afford a monthly premium of \$ 510.42(8.00% of \$76,564.00). According to Table 4, Appellants, ages 56, living in Berkshire County during the time they were being penalized for not having insurance, could have purchased insurance for \$750 per month for the Appellants. Coverage was not affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

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

The Appellant testified that they had the following monthly expenses for basic necessities in 2019: Mortgage: \$1,800, Utilities \$340, Water \$29, Cell Phone \$50, Car Insurance \$108, Gas \$ 130, Food \$800, Credit Cards \$400, totaling 3,657. (Testimony of Appellant).

The evidence presented by the Appellants in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The Appellant testified that in 2019 they incurred basic monthly expenses of approximately \$3,657.00, Those expenses were less than their regular monthly net income of approximately \$4,669.80, thereby making a private health insurance premium of \$510.42/month affordable, and would not have caused an undue hardship. Where the Appellant's testified they have obtained health insurance in 2020, procuring health insurance under the individual mandate has not been lost on them. Notwithstanding the foregoing analysis, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve-month assessment.

Accordingly, it is concluded that the Appellants did not establish through substantial and credible evidence that they did experience other circumstances including a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). The determination that the appellants are eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 4

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still do not have health insurance, and if their income and employment have not changed, they are advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-350

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 28, 2020

Decision Date: August 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 28, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The record was left open for the Appellant to provide documents proving he had health insurance in 2019.

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

- Exhibit 1: Notice of Hearing dated June 22, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal dated March 16, 2020
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-seven years old and is single.
2. He lives in Middlesex County, Massachusetts. Appellant works in a real services business.
3. Appellant had health insurance first through his mother's health insurance and then through his own health insurance. Appellant provided copies of two 1099-HC'S in his Open Record responses.
4. Appellant does have health insurance in 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstances, such as applying the affordability Tables in Schedule HC to you is inequitable"
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of 46,764.00 was more than \$49,380.00. The monthly premium for health insurance available on the private market in Middlesex County for a 25 year old single person with one dependent was \$257.00. The tables reflect that Appellant could afford \$296.17. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 "Other. During 2019 other circumstances, such as applying the affordability Tables in Schedule HC to you is inequitable"

Appellant provided proof that he had health insurance during the entire year of 2019 (See Exhibit 5, Open Record Documents).

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$24,690.00 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 2019 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

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 provided proof of health insurance in the entire year of 2019. On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-354

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: July 29, 2020
Decision Date: August 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on July 29, 2020.

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

- Exhibit 1: Hearing Notice dated June 22, 2020 (1 page)
- Exhibit 2: Appeal Case Info. from Sch. HC 2019 (1 page)
- Exhibit 3: Statement of Grounds for Appeal (3 pages)
- Exhibit 4: Supporting Letter from Appellant (2 pages)
- Exhibit 5: Emails re Trip Confirmations 5/24/19 (3 pages)
- Exhibit 6: Vendorpass Offer 6/10/19 (1 page)
- Exhibit 7: Benefits Guide Excerpt (2 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 25 years old in March 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019. (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$35,137. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in April 2020. (Exhibits 3 – 4 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$35,137, could afford to pay \$146.30 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 25 living in Suffolk County, could have purchased private market health insurance for \$231.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant did not have access to affordable employer-sponsored insurance in 2019 because the cost of insurance the employer offered was about \$300 per month, and Appellant could afford to pay \$146.30 per month according to Table 3 of Schedule HC for 2019.
9. The Appellant was income-eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's income of \$35,137 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant was a student in a graduate program in France from 2016, at the age of 22 years, until their return to the United States in June 2019, at the age of 25 years. Appellant stayed with family in Miami until moving to Boston to begin work on June 17, 2019. Appellant was placed through their employer, a contingent labor placement company, with a quasi-public Massachusetts Authority. Thus, the Appellant was not a

resident of Massachusetts for the first five and one-half months of 2019. (Appellant's Testimony and Exhibit 4)

11. The Appellant testified that their employer provided them with a Benefits Guide but that no one spoke with them in person or by phone about health care insurance or other benefits issues. (Appellant's Testimony). Appellant further testified that having lived abroad for three years, they were unfamiliar with how health insurance worked in the United States generally, much less in Massachusetts, specifically. The Appellant was unaware of the Massachusetts individual mandate and the Health Connector. They had previously been covered under their parents' health insurance policy until Appellant was 22 years old. (Appellant's Testimony). I find Appellant's testimony to be credible on these points.
12. Upon reviewing the Benefits Guide, the Appellant believed that they were not eligible for insurance until the first of the month following 60 days of employment. Therefore, Appellant believed they were not eligible for insurance until September 1, 2019. (Appellant's Testimony). The cost of the employer's insurance was about \$300 monthly, which they did not believe they could afford. (Appellant's Testimony).
13. Work colleagues subsequently recommended to Appellant that they explore insurance through the Health Connector marketplace as a more affordable option than private insurance offered through their employer. The Appellant believed that they could not enroll in insurance through the Connector until the open enrollment period in November 2019. (Appellant's Testimony and Exhibit 4).
14. Appellant testified also that they were overwhelmed with new information about transitioning to a different country's healthcare system. The Appellant was further overwhelmed with logistics and costs associated with moving to Boston and a general increase in the cost of living. The Appellant could not afford to refill prescriptions and to go to doctor's appointments during this transition, all of which caused them stress. (Appellant's Testimony and Exhibit 4). The Appellant believed they could not afford to purchase health insurance because of all these costs. (Appellant's Testimony and Exhibit 4). I find Appellant's testimony on these points to be credible.
15. The Appellant's up-front expenses to move to Boston from France totaled at least \$5,450 and included: Moving expenses - \$2,500 (including flight), furniture - \$1600 and a security deposit - \$1350. (Appellant's Testimony).
16. The Appellant's pre-tax monthly living expenses upon moving to Boston in June 2019 totaled \$1,777 and included: Rent - \$1350, Electricity/heat - \$60, Gas - \$30, WIFI - \$37, food - \$300. (Appellant's Testimony).
17. The Appellant currently has insurance through a Connector non-group program.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. They checked the “Other” box on the Statement of Grounds for Appeal and submitted a letter supporting their appeal citing non-residency in Massachusetts for six months, living abroad for three years resulting in lack of knowledge about the Massachusetts individual mandate, and substantial expenses associated with moving to Massachusetts from France, making health insurance unaffordable for several months. (Exhibits 3 & 4 and Appellant’s Testimony).

As an initial matter, I conclude based on evidence contained in this administrative record that Appellant did not live in Massachusetts from January until June 17, 2020. (Exhibit 4 and Appellant’s Testimony). Therefore, Appellant’s tax penalty is reduced by six (6) months based on their Massachusetts non-residency during that time period.

To determine if the remaining six-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program from July through December 2019. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$35,137.00, could afford to pay \$146.30 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 25, living in Suffolk County, could have purchased private market health insurance for \$231.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer-sponsored because that insurance cost about \$300 per month, whereas the Appellant could afford to pay \$146.30 per month for insurance.

The Appellant would have been income-eligible for government-subsidized ConnectorCare insurance in 2019 because their adjusted gross income of \$35,137 was less than 300% of the

Federal Poverty Level amount of \$36,420 in 2019. (Schedule HC, Table 2). However, that coverage, which is subsidized in part by a federal advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the federal Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is 9.86 percent or less of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR section 155.305(f). Calculating 9.86% of the Appellant's modified adjusted gross income of \$35,137 equals \$3,464.50 per year or \$288.70 per month. Since the employer-sponsored insurance offered to Appellant cost \$300.00 per month, that offer was deemed unaffordable pursuant to the Affordable Care Act. The Appellant, therefore, was eligible for ConnectorCare coverage because they were eligible for any advance premium tax credit. Exhibit 1.

Given that affordable government-sponsored insurance was available to Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

Appellant's adjusted gross income for 2019 of \$35,137 does not consider that Appellant incurred substantial up-front expenses in connection with moving to Massachusetts totaling about \$5,450, had monthly living expenses of \$1,777, had been living abroad for three years before moving to Massachusetts, and was unaware about the Massachusetts individual mandate and the Health Connector. Under those circumstances and considering the totality of the evidence contained in this administrative record, I conclude that purchasing health insurance coverage would have been unaffordable to Appellant because doing so would have caused them to experience a financial hardship. 956 CMR 6.08 (1). Additionally, based on Appellant's testimony, which I found credible, they did not understand the Massachusetts individual mandate and how the Health Connector marketplace works. 956 CMR 6.08(3). Moreover, the Appellant testified that they currently have insurance coverage through a non-group Health Connector program.

For all these reasons, six (6) months of Appellant's twelve-month tax penalty is waived based on Massachusetts non-residency and the remaining 6-month penalty is waived based on financial hardship. Thus, the assessed twelve-month tax penalty is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-355

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 29, 2020

Decision Date: August 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer on the Appellant's Schedule HC for 2019 (Primary Taxpayer) appeared at the hearing, which was held by telephone on July 29, 2020. The Primary Taxpayer's Spouse was not present. The Primary Taxpayer asked permission for their 20-year old son to attend the hearing and assist in representing Appellants. This request was granted. The procedures to be followed during the hearing were reviewed with the Primary Taxpayer and Appellants' son. Each individual was then sworn in. Exhibits were marked and admitted into evidence with no objection.

The hearing record consists of the testimony of the Primary Taxpayer and Appellants' son and the following documents which were admitted into evidence:

Exhibit 1: Hearing Notice dated June 22, 2020 (1 page)

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

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

Exhibit 4: Letter to HJ 4/12/19 from EOHHS (2 pages)

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

Exhibit 5: Letter to FK 4/12/19 from EOHHS (2 pages)

Exhibit 6: Letter to YK 4/12/19 from EOHHS (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 51 years old in October 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person filing jointly with 3 dependents claimed. (Exhibit 2).
2. The Primary Taxpayer's Spouse was 64 years old in October 2019. (Exhibit 5).
3. The Appellants lived in Suffolk County, MA in 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$59,021. (Exhibit 2).
5. The Appellants did not have health insurance during five (5) months of tax year 2019, January through May. (Exhibit 2 and Primary Taxpayer's Testimony).
6. The Primary Taxpayer has been assessed a two-month tax penalty for 2019. They filed an appeal of the assessment in April 2020. (Exhibits 3 – 4 and Primary Taxpayer's Testimony).
7. The Primary Taxpayer's Spouse has been assessed a two-month tax penalty for 2019. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married person, filing jointly, with three dependents claimed, with an annual adjusted gross income of \$59,021, could afford to pay \$287.73 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 51 living in Suffolk County, could have purchased private market health insurance for \$968.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Primary Taxpayer in 2019. In accordance with Table 4, the Primary Taxpayer's Spouse, age 64 living in Suffolk County, could have purchased private market health insurance for \$992.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for them in 2019.

10. The Primary Taxpayer worked part-time as a sales clerk and testified that their employer did not offer insurance during 2019. (Primary Taxpayer's Testimony).
11. The Appellants' son testified that Primary Taxpayer's Spouse worked as a delivery person for an auto parts company in 2019 and was offered insurance that cost about \$520 per month, which they believed was not affordable. (Appellants' Son's Testimony).
12. The Appellants were income-eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellants' income of \$59,021 was less than 300% of the Federal poverty level for a five-member family, which was \$88,260.00 in 2019. (Schedule HC, Table 2).
13. The Appellants and their three dependent children had monthly living expenses of \$3,576 which included: Rent - \$2000, Electricity - \$130, Food - \$650, Cell phone - \$250, Car insurance - \$333.33, Car gas - \$80, and Wifi - \$100. The Primary Taxpayer's Spouse also incurred expenses in connection with moving to the United States to join their family. (Testimony of Primary Taxpayer and Son).
14. The Primary Taxpayer and their son testified that before 2019, they had been living in the United States without the Primary Taxpayer's Spouse, the Primary Taxpayer worked part-time, and the family had been receiving MassHealth Coverage. Once the Primary Taxpayer's Spouse joined them in the United States in 2019 and found a job, the family no longer qualified for MassHealth coverage and had to search for a new health care plan. Not being familiar with the Massachusetts individual mandate requirements and the Health Connector marketplace, it took them until April 2019 to find an affordable health plan. (Testimony of Primary Taxpayer and Son). I found this testimony to be credible.
15. The Appellants and their family currently have health insurance coverage offered through the Health Connector. (Testimony of Primary Taxpayer and Appellants' Son).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants did not have health insurance for five (5) months of 2019, January through May. The Massachusetts Department of Revenue applied the three-month waiver to the Appellants'

assessed tax penalties, leaving penalty assessments of two (2) months for each Appellant. The Appellants submitted a statement of grounds for this appeal citing “Other” circumstances and testifying that once the Primary Taxpayer’s Spouse joined the family in the United States and began working, they had to find affordable health insurance coverage since they no longer qualified for MassHealth benefits. (See Exhibits 3-6 and Testimony of Primary Taxpayer and Appellants’ Son).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married person, filing jointly, with three dependents claimed, with an annual adjusted gross income of \$59,021, could afford to pay \$287.73 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 51 living in Suffolk County, could have purchased private market health insurance for \$968.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Primary Taxpayer in 2019. In accordance with Table 4, the Primary Taxpayer’s Spouse, age 64 living in Suffolk County, could have purchased private market health insurance for \$992.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Primary Taxpayer’s Spouse in 2019.

Appellants did not have access to affordable employer-sponsored insurance in tax year 2019 because the Primary Taxpayer’s part-time employer did not offer insurance. The Primary Taxpayer’s Spouse’s employer offered insurance at a cost of \$520 per month, which is more than the \$287.73 per month deemed affordable in accordance with Table 3 of Schedule HC for 2019.

The Appellants would have been income-eligible for ConnectorCare coverage in 2019 because their income of \$59,021, was less than 300% of the Federal poverty level for a five-member family, which was \$88,260.00 in 2019. (Schedule HC, Table 2). However, that coverage, which is subsidized in part by a federal advance premium tax credit, is available to individuals who have access to insurance through employment only if the offered insurance is unaffordable. Pursuant to the federal Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is 9.86 percent or less of the employees’ modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR section 155.305(f). Calculating 9.86% of the Appellants’ modified adjusted gross income of \$59,021 equals \$5,189.47 per year or \$484.96 per month. Since the employer-sponsored insurance offered to Appellant Husband cost \$520.00 per month, that offer was deemed unaffordable pursuant to the Affordable Care Act. The Appellants, therefore, were eligible for ConnectorCare coverage because they were eligible for an advance premium tax credit. (Exhibit 2).

Given that affordable government-sponsored insurance was available to Appellants, it must be determined if such insurance was not affordable to the Appellants because of a financial hardship as defined in 956 CMR 6.08.

The Primary Taxpayer's Spouse incurred expenses of moving to the United States and joining their family in early 2019. While the Spouse was searching for employment, the family of five survived on the Primary Taxpayer's part-time salary. Once the Primary Taxpayer's Spouse found work, Appellants and their three children attempted to live on an adjusted gross income of \$59,021. Based on the totality of these circumstances, I conclude that purchasing health insurance in 2019 would have created a hardship for the family. 956 CMR 6.08(1) & (3). Additionally, based on the testimony of the Primary Taxpayer and Appellants' Son, which I found credible, they did not understand how the Health Connector marketplace works, which delayed their securing an affordable health plan 956 CMR 6.08(3). Moreover, they testified that the family currently has health insurance coverage through the Health Connector marketplace.

For all these reasons, the assessed tax penalty for Appellants' two (2) uninsured months is waived entirely for each Appellant.

PENALTY ASSESSED

Appellant Primary Taxpayer: No. of Months Appealed: 2 No. of Months Assessed: 0
Appellant Primary Taxpayer's Spouse: No. of Months Appealed: 2
No. of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-356

Appeal Decision: Appeal Approved in Part/Denied in Part

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 29, 2020

Decision Date: August 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on July 29, 2020.

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

Exhibit 1: Hearing Notice dated June 22, 2020 (1 page)

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

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

Exhibit 4: Monthly Income & Expenses, 3/19/20 (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 55 years old in June 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Worcester County, MA in 2019. (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$32,492. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020. (Exhibits 3 – 4 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$32,492, could afford to pay \$135.38 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 55 living in Worcester County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified that they did not have access to employer-sponsored insurance during 2019 because their employer did not offer insurance. (Appellant's Testimony).
9. The Appellant was eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's income of \$32,492 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant testified that their adjusted gross income was \$32,492 and they could not meet their living expenses and purchase health insurance. (Exhibits 3 & 4 and Appellant's Testimony).
11. Appellant testified they worked as a delivery driver for a restaurant, had a base pay of \$6.00 per hour and depended greatly upon customer tips which were unpredictable. Their monthly income fluctuated considerably, making payment of regular monthly living expenses and health insurance very difficult. (Appellant's Testimony). The Appellant further testified that they had been laid off for two months in 2019 when the restaurant closed but then was rehired. (Appellant's Testimony). I credit Appellant's testimony on these points.

12. The Appellant's 2019 living expenses of \$2,4615.96 included: Rent - \$725, Car payments - \$529, Car insurance - \$77.33, Food - \$400, Utilities - \$250 and Cell phone - \$70. (Appellant's Testimony and Exhibit 4).
13. Appellant testified that during 2019 their car was repossessed because they were unable to make loan payments, and they were forced to borrow cars for some period of time until they could repay the car loan. Additionally, the Appellant had costs of a storage unit of at least \$345.64 because they had to vacate an apartment they couldn't afford and live with a relative for some period of time. (Appellant's Testimony).
14. The Appellant testified that they went on the Health Connector website at one point but did not understand how it works and thought monthly insurance was too expensive. (Appellant's Testimony).
15. The Appellant was assessed a tax penalty for tax year 2018. (Exhibit 2 and Appellant's Testimony).
16. The Appellant does not currently have health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. On the Statement of Grounds for Appeal, the Appellant checked the box stating that the expense of purchasing health insurance would have caused a serious deprivation of food and other necessities. (Exhibit 3). Additionally, the Appellant testified that their base pay as a restaurant delivery driver was \$6.00 per hour and that they depended on customer tips, which varied greatly; they had been laid off for two months and then rehired; and in addition to monthly living expenses, they had the cost of repaying a car loan for a car which had been re-possessed and the costs of a storage unit when they had to move from an apartment for a period of time.

To determine if the twelve-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program from July through December 2019. If affordable insurance was

available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$32,492, could afford to pay \$135.38 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 55, living in Suffolk County, could have purchased private market health insurance for \$418.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer-sponsored because their employer did not offer health insurance. (Appellant's Testimony).

The Appellant was eligible for government-subsidized ConnectorCare coverage in 2019 because the Appellant's income of \$32,492 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC for 2019, Table 2).

Given that affordable government-sponsored insurance was available to Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

The Appellant's annualized adjusted gross income of \$32,492 obscures that they were paid a base pay of \$6.00 per hour and depended greatly on customer tips, which varied tremendously on a monthly basis. Further, they were laid off for two months during 2019 when their employer closed, during which time they had no income, making it nearly impossible for them to meet their monthly living expenses. They also had to re-pay a car loan in order to have their re-possessed car returned and had added costs of a storage unit for their belongings when they had to vacate an apartment. They went online to the Health Connector website at one point but did not understand the options. (Appellant's Testimony).

Based on these circumstances and considering the totality of the evidence contained in this administrative record, I conclude that Appellant has demonstrated they would have experienced financial hardship if they had purchased health insurance during 2019. 956 CMR 6.08(1)(e) &(3). Nonetheless, I further conclude based on the record that the hardship does not warrant waiving the entire twelve-month penalty given that the Appellant also had a tax penalty assessed for the 2018 tax year and still does not have health insurance currently notwithstanding Appellant's potential eligibility for ConnectorCare coverage. 956 CMR 6.07(8). Given the Appellant's efforts to contact the Health Connector but confusion about how the Connector marketplace works, as they credibly testified, I conclude that reducing the penalty from twelve (12) months to two (2) months will mitigate the harshness of the penalty and serve as an incentive for Appellant to contact the Health Connector directly by telephone about obtaining affordable coverage. 956 CMR 6.07(8).² A primary purpose of the tax penalty is to serve as an

² The Appellant was advised to contact a Health Connector Customer Service Representative at 1-877-623-6765 to explore if Appellant qualifies for ConnectorCare coverage or other health insurance made available through the Connector marketplace.

incentive to taxpayers to obtain affordable insurance in order to satisfy the individual mandate requirements.

For all these reasons, the Appellant's assessed tax penalty is reduced from twelve (12) months to two (2) months.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-358

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 29, 2020

Decision Date: August 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on July 29, 2020.

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

Exhibit 1: Hearing Notice dated June 22, 2020 (1 page)

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

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

Exhibit 4: Supporting Letter from Appellant (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 29 years old in March 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2019. (Exhibit 2).

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

3. The Appellant's Federal Adjusted Gross Income for 2019 was \$35,776. (Exhibit 2).
4. The Appellant did not have health insurance during 5 months of tax year 2019, August through December.
5. The Appellant has been assessed a two-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020. (Exhibits 3 – 4 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$35,776, could afford to pay \$149.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 29 living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant had employer-sponsored insurance coverage from January through July 2019 when they worked for an electrical contracting company. (Appellant's Testimony and Exhibit 2)
9. The Appellant lost their job and insurance with the electrical contracting company in July 2019. They were unemployed during August and became employed as an electrical apprentice from September through December 2019. (Appellant's Testimony).
10. The Appellant was not offered employer-sponsored insurance as an electrical apprentice. (Appellant's Testimony and Exhibit 4). Thus, employer-sponsored insurance was not available to the Appellant from August through December 2019, the five months during which the Appellant was uninsured during 2019.
11. The Appellant would have been eligible for government-subsidized ConnectorCare coverage because their adjusted gross income of \$35,776 was less than 300% of the Federal Poverty Level amount of \$36,420 in 2019.
12. As an apprentice, the Appellant was paid on an hourly basis with fluctuating hours and earned a total of about \$7,000 pre-tax from August through December 2019 or approximately \$1400 per month pre-tax. (Appellant's Testimony and Exhibit 4).
13. The Appellant testified that they believed they could not enroll in Health Connector coverage until the open enrolment period at the beginning of the new year. Therefore, they did not attempt to get insurance through the Connector while working as an apprentice. (Appellant's Testimony and Exhibit 4). I credit Appellant's testimony.

14. The Appellant's 2019 pre-tax monthly living expenses of \$1021.00 included: rent - \$285; heat/utilities - \$66; Car insurance - \$65; Cell phone - \$45; Food - \$200; Gas - \$60; and Student loans - \$300.

15. The Appellant currently has insurance coverage through MassHealth.

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant was uninsured for only part of the year. Appellant did not have insurance in the months of August through December 2019, a total of five (5) months. The Massachusetts Department of Revenue applied the three-month grace period to the five (5) uninsured months shown on Appellant's Schedule HC for 2019, resulting in a reduced penalty assessment of two (2) months. (Exhibit 2).

The Appellant is appealing the assessed tax penalty of two (2) months. They checked the "Other" box on the Statement of Grounds for Appeal and submitted a letter supporting their appeal citing loss of a job after seven (7) months and unaffordability of coverage for five (5) months in 2019. (Exhibits 3 & 4 and Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$35,776.00, could afford to pay \$149.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 29, living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to employer-sponsored insurance for the months of August through December 2019 because, as an apprentice electrician, they was not offered insurance.

The Appellant would have been eligible for government-subsidized ConnectorCare coverage in 2019 because their adjusted gross income of \$35,776 was less than 300% of the Federal Poverty Level amount of \$36,420 in 2019. (Schedule HC, Table 2).

Given that affordable government-sponsored insurance was available to Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

Appellant's adjusted gross income for 2019 was \$35,776. That annualized income obscures the fact that the Appellant lost his job and insurance in July 2019 and then worked as an apprentice from September through December 2019 earning a total of only \$7000 pre-tax or about \$1400 per month pre-tax for the months of August through December 2019. Appellant's monthly living expenses were \$1021.00. Under those circumstances and considering the totality of the evidence contained in this administrative record, I conclude that purchasing health insurance coverage would have been unaffordable to Appellant because doing so would have caused them to experience a financial hardship. 956 CMR 6.08 (1).

Additionally, based on Appellant's testimony, which I found credible, they did not correctly understand how the Connector marketplace works. 956 CMR 6.08(3). Moreover, the Appellant testified that they currently have insurance coverage through MassHealth.

For all these reasons, the tax penalty for Appellant's two (2) uninsured months is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-359

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 3, 2020

Decision Date: August 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 3, 2019, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

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

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

- Ex. 4—Employer Health Insurance Information Form for 2019

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 28-years-old, is single, and does not have children. She resided in Middlesex County, MA in 2019. She had health insurance for the months of September through December in 2019. (Testimony, Ex. 2)
2. The appellant did not have health insurance in 2017 and 2018. She did not pay a penalty for failure to obtain insurance for those years. (Testimony)

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

3. The appellant has worked for the same employer since 2016 and was eligible for employer provided health insurance in 2019. She did not enroll because the cost was too high. The plan offered by the employer met Minimum Creditable Coverage (MCC) standards. The appellant's share of the premium for the lowest cost individual plan would have been \$75.90/month. She could have enrolled in coverage beginning on November 19, 2018 for January 1, 2019. (Testimony, Ex. 4)
4. The appellant investigated health insurance options for 2019 through the Health Connector, and was denied eligibility on two occasions. She was able to enroll in subsidized coverage from September through December for which she paid a monthly premium of \$125.00. Her coverage with the Connector has continued through 2020. (Testimony)
5. The appellant began school in September, 2019 and was able to pay her full tuition of \$4000.00. She had applied for a tuition loan, but was denied and had to save enough money prior to September in order to begin classes. In addition to tuition, she paid approximately \$500.00 for books. (Testimony)
6. The appellant reported an adjusted gross income of \$42,986.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$1649.00 for rent which included electricity (\$600.00), heat (\$50.00), cable and internet package (\$50.00), automobile insurance (\$239.00), automobile loan (\$218.00), cell phone (\$132.00), gasoline (\$160.00), and food (\$200.00). In addition, the appellant paid \$300.00/month for credit card debt and incurred \$600.00 for car repairs. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. She also submitted a letter with her statement in which she stated in part that she could not afford health insurance for the first part of the year because she had to save money for her tuition and books.

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

The appellant testified credibly that she has worked for the same employer since 2016, and was eligible for employer health insurance in 2019, but did not enroll because she could not afford the cost. She testified that she applied for coverage through the Health Connector, and was denied eligibility twice before she was able to enroll in subsidized coverage from September through December. She testified that she began school in September, and had to save all her money prior to then for tuition because she was denied a tuition loan. Finally, she testified that she has remained enrolled in subsidized insurance through the Connector in 2020.

The evidence provided by the appellant established that her income for 2019, \$42,986.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$42,491.00 and \$48,560.00 is deemed to be able to afford a monthly premium of \$272.24 (7.60% of \$42,986.00/12). Table 4 of the Premium Schedule indicates that a 27-year-old individual (the age of the appellant in 2019) in Middlesex County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The employer provided information which indicated that the lowest cost for an individual plan was \$75.90 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86% or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$75.90. That cost is less than 9.86% of the appellant's projected household MAGI for 2019 (i.e. 9.86% of \$42,986.00 is \$4238.42 or \$353.20/month).² Hence, since the cost of employer insurance is less than \$353.20/month, she is considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Even though employer and private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

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

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$1949.00, including her credit card debt. Those expenses were less than her regular monthly pre-tax income of approximately \$3582.00, thereby making an employer health insurance premium of \$75.90/month or a private insurance premium of \$257.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1633.00 per month is not a panacea, it does not appear on its face that the payment of either amount for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded employer and private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that she did not purchase employer health insurance for the first eight months of the year because she saved her money to cover the full cost of her tuition. She also established that once she began classes and paid her tuition, she enrolled in health insurance thereby demonstrating that the mandate to obtain insurance was not lost on her.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised that, based on the evidence in the record, since employer provided health insurance was considered to be affordable to her in 2019, her eligibility for subsidized health insurance should have been blocked. She is cautioned that when her eligibility for health insurance for 2021 is redetermined, she should accurately report the cost and accessibility of employer health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-360

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 3, 2020

Decision Date: August 19, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant wife and her husband appeared at the hearing which was held by telephone on August 3, 2020, and testified under oath. The hearing record consists of their testimony and the following documents which were admitted into evidence without their objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant wife and her husband are both 27-years-old and do not have children. In 2019, they resided in Middlesex County. In 2019, the husband had health insurance from January through July and the wife had insurance for November and December. (Testimony, Ex. 2)
2. The appellant and her husband got married in March, 2018. (Testimony)
3. In 2019, the appellant was employed on a part-time basis by the same employer from January through May and from October through the remainder of the year. She was not eligible for employer health insurance due to her part-time status. She took a medical leave in October and following a hospitalization in November, she enrolled in health insurance through MassHealth for November and December and has continued her coverage in 2020. She returned to employment on a part-time basis at the beginning of 2020. (Testimony, Ex. 2)

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

4. The appellant did not have health insurance for several years prior to 2019 and was never assessed a tax penalty for failure to obtain insurance. (Testimony)
5. The appellant's husband was a student from January through July, 2019 during which time he had student health insurance. He commenced employment in October and had a 90-day waiting period prior to becoming eligible for health insurance. He missed the open enrollment period for 2020 insurance and was separated from employment in February, 2020. He has been receiving unemployment insurance benefits since that time. (Testimony)
6. Prior to 2019, the husband was a student for several years during which time he had student health insurance. (Testimony)
7. The appellant and her husband reported an adjusted gross income of \$43,103.00 on their jointly filed 2019 federal tax return, and reported that they were married with no dependents. Of that amount, the appellant earned approximately \$15,000.00. (Testimony, Ex. 2)
8. In 2019, the appellant and her husband had regular monthly expenses of approximately \$2685.00 for rent (\$1815.00), heat and electricity (\$100.00); car insurance (\$120.00), cell phones (\$50.00), gasoline (\$200.00), and food (\$400.00). In addition, they bought a used car for \$5701.00 and the husband paid approximately \$1000.00 towards his student loan. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 for "other" reasons. She also submitted a letter (Ex.1) with her statement in which she stated in part that she could not afford to purchase insurance due to her joint basic living expenses as well as larger expenses including the purchase of a car and payment of legal fees of approximately \$750.00 for immigration services.

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

months). The husband should have been assessed a penalty of two months based on the information submitted at the hearing, but as already mentioned, indicated that he was not subject to a penalty.²

The appellant testified credibly that she was employed in 2019, but was not eligible for employer health insurance due to her part-time status. She testified that she was on a leave of absence in November and was hospitalized, at which time she was able to enroll in MassHealth for the remainder of the year. The husband testified that he was a student from January through July during which time he had student health insurance. He testified that he commenced employment in October and had a 90-day waiting period before becoming eligible for health insurance. He testified that he missed the open enrollment period of 2020 health insurance and was separated from employment in early 2020. Finally, the appellant testified that she has continued her enrollment in MassHealth in 2020.

Inasmuch as the appellant is the sole party subject to a penalty, only her approximate income of \$15,000.00 will be considered in determining whether insurance was affordable to her. According to Table 1 of the Federal Poverty Level (FPL), Annual Income Standards, since her income is less than \$18,210.00, it is considered to be below 150% of the FPL. The instructions for the 2019 Massachusetts Schedule HC (page HC-6) indicate that if an individual's income is at or below 150% of the FPL, the penalty does not apply. Accordingly, it is not necessary to consider an affordability analysis of insurance for her.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

² It is possible that since the husband was in a 90-day waiting period for health insurance beginning in October, he concluded that he was not subject to a penalty for the months of October through December, and that the intervening months of August and September between his student health insurance and the beginning of his waiting period were covered by the three-month gap period.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-366

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: August 4, 2020
Decision Date: August 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on August 4, 2020. The procedures to be followed were reviewed with Appellant who was then sworn in. At the end of the hearing, the record was left open until August 18, 2020 for the Appellant to submit additional evidence. The Appellant submitted an additional document on or about August 7, 2020, which has been added to the record and marked as Exhibit 6.

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

- Exhibit 1: Hearing Notice dated July 7, 2020 (1 page)
- Exhibit 2: Appeal Case Info. from Sch. HC 2019 (1 page)
- Exhibit 3: Statement of Grounds for Appeal (3 pages)
- Exhibit 4: GIC Municipal Enrollment/Change Form (1Mun)
8/20/19 (1 page)
- Exhibit 5: Form 1095-C 2019 City of Lawrence (1 page)

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

Exhibit 6: Tufts Health Plan Notice of Termination of Coverage, 8/18/19 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 26 years old in September 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$23,020. (Exhibit 2).
4. The Appellant did not have health insurance during ten (10) months of tax year 2019 according to Form HC for 2019. (Exhibit 2).
5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020. (Exhibits 3 and Appellant's Testimony).
6. The Appellant was covered as a dependent under their parents' Tufts Health Plan insurance from January through September 30, 2019. (Appellant's Testimony and Exhibit 6). The Appellant testified that their parents did not show them Exhibit 6 demonstrating their insurance coverage under their parents' plan until after they had filed their 2019 tax forms and appeal, which the Appellant did not understand when they completed the Form HC for 2019. (Appellant's Testimony). I credit Appellant's testimony on these points, which is supported by Exhibit 6.
7. The Appellant began receiving insurance through their new employer in October 2019 after being hired as a school teacher by a Massachusetts public school district. (Appellant's Testimony and Exhibits 4 & 5).
8. The Appellant currently receives health insurance coverage through their employer.

ANALYSIS AND CONCLUSIONS OF LAW

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

According to the Form HC for 2019, Appellant did not have insurance in the months of January through September 2019, a total of ten (10) months. The Massachusetts Department of Revenue applied the three-month grace period to the ten (10) uninsured months shown on Appellant's Schedule HC for 2019, resulting in a reduced penalty assessment of seven (7) months. (Exhibit 2).

The Appellant is appealing the assessed tax penalty of seven (7) months. They checked the "Other" box on the Statement of Grounds for Appeal and testified and submitted a document from Tufts Health Plan confirming that they had coverage as a dependent under their parents' plan from January through September 30, 2019. (Appellant's Testimony and Exhibit 6).

Appellant testified credibly that they did not understand initially and, therefore, did not correctly report on Form HC for 2019 their health insurance coverage as a dependent under their parents' plan until September 30, 2019. Further, Appellant's testimony was corroborated by a document from Tufts Health Plan that they produced shortly after the hearing. (Exhibit 6).

The Appellant was hired as a teacher by a Massachusetts public school district, where they began receiving health insurance coverage in October 2019 and continue to receive that insurance through the present.

For all these reasons, I conclude that the Appellant had health care coverage that met minimum creditable coverage standards for all of 2019. Accordingly, the assessed tax penalty for Appellant's seven (7) uninsured months is waived entirely.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-371

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: August 6, 2020
Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Correspondence from the Health Connector, dated July 7, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated March 12, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 19 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Suffolk County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$26,214 (Exhibit 2).
4. Prior to 2019, Appellant had worked at a job that provided employer sponsored health insurance (Testimony of Appellant).
5. During 2019, Appellant worked as a contractor and employer sponsored health insurance was not available (Testimony of Appellant).
6. Appellant applied for government subsidized insurance in the later part of 2019 and had health insurance in November and December 2019 (Exhibit 2 and Testimony of Appellant).
7. During 2019, Appellant had the following expenses for basic necessities: rent \$400; utilities \$660; food \$400; clothing \$20; car insurance \$400; gasoline \$100; medical expenses and prescriptions \$90. Appellant's expenses for necessities were \$2,070.

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$26,214 could afford to pay \$92 per month for private insurance. According to Table 4, Appellant, aged 19 and living in Suffolk County could have purchased private insurance for \$257 per month.
10. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
11. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
12. Appellant did not have health insurance for ten months in 2019 (Testimony of Appellant and Exhibit 2).
13. Appellant has been assessed a penalty for seven months for 2019 (Exhibit 2).
14. Appellant filed a hardship appeal on March 12, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was income eligible for government subsidized health insurance and began coverage in November 2019. Since Appellant potentially had access to affordable insurance for January through October, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During 2019, Appellant struggled to pay for basic expenses. Appellant had lost employer sponsored health insurance in 2018, and struggled financially in 2019. It took some time for Appellant to apply for and begin coverage under government subsidized health insurance in 2019. I find that given these circumstances, the penalty should be waived. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-372

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: August 6, 2020
Decision Date: August 19, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Notice of Hearing sent to Appellant dated July 7, 2020
Exhibit 2: Tax Information sheet from DOR
Exhibit 3: Notice of Appeal, dated March 22, 2020
Exhibit 4: Documents in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2019 and filed a 2019 Massachusetts tax return as single, with no dependents claimed (Exhibit 2).
2. Appellant lived in Suffolk County, MA beginning in August 2019 (Exhibit 2).
3. Appellant's Adjusted Gross Income for 2019 was \$24,665 (Exhibit 2).
4. Appellant lived in another state from January through August (Testimony of Appellant).
5. Appellant was covered under government subsidized health insurance from Appellant's state of residence in January through August (Exhibit 4 and Testimony of Appellant).
6. Appellant moved to Massachusetts in August 2019 (Exhibit 4 and Testimony of Appellant).
7. Appellant began health insurance in Massachusetts in August 2019 (Exhibits 2, 3, 4 and Testimony of Appellant).
8. Appellant's health insurance from August through December met Massachusetts minimum creditable coverage standards (Exhibit 2).
9. Appellant received a penalty for four months (Exhibit 2).

10. Appellant filed an appeal on March 22, 2020, stating that Appellant had been covered by health insurance (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, 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 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant lived outside of Massachusetts until August 2019. Appellant moved to Massachusetts in August 2019 and began health insurance that met Massachusetts standards in August 2019. Appellant’s obligation to obtain health insurance in Massachusetts began in August 2019, and Appellant began coverage in August. See Exhibits 2, 3, and 4 and Testimony of Appellant which I find credible.

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

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-385

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 6, 2020

Decision Date: August 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 9, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 18, 2020, with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 59 years old in October 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$29,851 (Exhibit 2 and Appellant Testimony).
4. The Appellant but did not have health insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$29,851 could afford to pay \$104 per month for health insurance. In accordance with Table 4, the Appellant, age 59, living in Suffolk County, could have purchased private insurance for \$418 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they worked part time and their employer did not offer health insurance (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a single person in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's 2019 monthly living expenses included: rent-\$500; heat-\$30; electricity\$50; telephone-\$100; car insurance-\$100; gasoline-\$108 and food-\$433 (Appellant Testimony).
11. The Appellant testified that they worked part time in tax year 2019 in order to care for an ill parent who was living in the Appellant's home. The Appellant explained that their parent required a special diet that cost about \$200 per week until they passed away in February 2020. The Appellant said that they struggled to keep up with their living expenses and the expenses for their parent while working part time and caring for their ill family member. I found the Appellant to be credible (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their return as a single person with no dependents. The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$29,851 could afford to pay \$104 per month for health insurance. According to Table 4, the Appellant, age 59, living in Suffolk County, could have purchased a private insurance plan for \$418 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant would have been eligible for ConnectorCare coverage in 2019 based upon the Appellant's income which was less than \$36,420. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they were working part time and caring for a sick family member living in their home for all of tax year 2019. Sadly, the Appellant's parent passed away in February 2020. The Appellant verified significant monthly living expenses as well as additional expenses for care of a sick parent living in their home in tax year 2019. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a substantial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(d), (e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-386

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 6, 2020

Decision Date: August 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 9, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed on March 18, 2020.
- Exhibit 4: The Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their 2019 Federal Income Tax return as single person with no dependents claimed (Exhibit 2).
2. The Appellant did not have health insurance in that met Massachusetts Minimum Creditable Coverage (MCC) requirements for any months of tax year (Exhibits 2, 3, 4 and Appellant Testimony).
3. The Appellant has been assessed twelve-month tax penalty for tax year 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 4).
4. The Appellants Federal Adjusted Gross Income for 2019 was \$27,332 (Exhibit 2 and Appellant Testimony).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

6. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$27,332 could afford to pay \$96 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Norfolk County, could have purchased private insurance for \$286 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
7. The Appellant testified that they did not have access to employer sponsored health insurance in tax year 2019. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$36,420 for a household of one in tax year 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
8. The Appellant testified that they contacted Health Connector in November 2018 to enroll in health insurance for 2019. The Appellant said that they were told information would be mailed to them. The Appellant stated that they waited but did not receive information. The Appellant explained that they called Customer Service and was told that open enrollment had ended, and they could no longer enroll. The Appellant said that they were given contact information to obtain insurance. The Appellant said that they enrolled in a plan in February 2019 and believed they followed Massachusetts requirements. The Appellant said that they did not learn the insurance they purchased did not meet Massachusetts requirements until they filed their tax return for the year. I found the Appellant to be credible.
9. I take Administrative Notice of the fact that Open Enrollment for obtaining Health Insurance from the Massachusetts Health Connector was November 1, 2018- January 23, 2019.
10. The Appellant submitted documentation verifying that they paid a \$99.00 enrollment fee and \$189 per month beginning February 20, 2019 to Five Star Health for health insurance coverage for the period of February through December (Exhibit 4 and Appellant Testimony).
11. The cost of the Appellant's Five Start Health insurance was more than the \$96 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019.

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 did not have health insurance that met Massachusetts MCC standards for any months of tax year 2019 and consequently has been assessed a twelve-month tax penalty. The Appellant testified that they attempted to apply for coverage through the Health Connector by telephone in November 2018. The Appellant said that they were told that they would receive documents in the mail, but they did not receive any. The Appellant apparently did not follow up with the Health Connector until after Open Enrollment for 2019 had ended and the Appellant was advised that they could not enroll for tax year 2019. The Appellant verified that they purchased health insurance through Five Star Health in February 2019 and did not learn until they filed their taxes in early 2020 that the health insurance they purchased did not meet Massachusetts MCC standards.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$27,332 could afford to pay \$96 per month for health insurance. According to Table 4, the Appellant age 38, living in Norfolk County, could have purchased a private insurance plan for \$286 per month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant did not have access to employer sponsored health insurance. The Appellant was financially eligible for ConnectorCare coverage based upon the Appellant’s income which was less than \$36,420. See Table 2 of Schedule HC 2017 and 956 CMR 12.04 for eligibility criteria. The Appellant testified credibly that they attempted to apply for ConnectorCare but did not receive expected information in the mail and apparently did not follow up with the Health Connector until open enrollment had ended. The Appellant was told in February that they could not enroll in ConnectorCare for 2019 (See 45 CFR § 155 and 956 CMR 12.10(5)).

The Appellant paid a \$99 enrollment fee and a monthly premium of \$189 for health insurance for the period of February 20 through December in tax year 2019. This is more than the \$96 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2019. As noted above, the Appellant was advised in February 2019 that they were not eligible for ConnectorCare coverage for 2019 because the Appellant missed the open enrollment period.

Based on the evidence and testimony in this administrative record, the Appellant has demonstrated that the cost of purchasing additional health insurance that met Massachusetts MCC standards would have caused the Appellant to experience a substantial hardship. 956 CMR 6.08. The Appellant’s twelve-month penalty is waived.

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

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __0____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-389

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 10, 2020

Decision Date: August 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 10, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The 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 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 5, 2020, with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 55 years old in January 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$34,784 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$34,784 could afford to pay \$145 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Suffolk County, could have purchased private insurance for \$418 per month for a single plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant.
8. The Appellant did not check any box on their Appeal Request Form indicating the basis for their appeal, but the Appellant did submit a copy of Form 1095-C 2019 verifying that their employer offered employer sponsored health insurance at a monthly cost of \$99.10. This is less than the \$145 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019.
9. The Appellant's income was less than 300% of the federal poverty level, which was \$36,420 in 2019. Because the Appellant had access to affordable employer sponsored health insurance the Appellant would not have been eligible for ConnectorCare (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that the Form 1095-C 2019 that they submitted verifies that they had health insurance for all months of tax year 2019. The Appellant was advised that this form verified that insurance was offered but did not verify that the Appellant had enrolled. The Appellant was informed that the record could be left open to allow the Appellant to submit documentation from their employer that the Appellant had enrolled in this insurance in tax year 2019. The Appellant then testified that they thought they had MassHealth in 2019. The Appellant said that they had been receiving disability payments prior to 2019 and did not receive a termination notice from MassHealth. The Appellant indicated their PO box number had changed. I found the Appellant's testimony to be inconsistent and therefore not credible.
11. The Appellant's monthly living expenses included: rent-\$1,835; heat-\$60-\$100 depending upon the season; electricity-\$60-100 depending upon the season; telephone-\$60; MBTA pass-\$90; food-\$433 and medications-\$30. The Appellant did not submit any evidence that they fell behind in their rent or utility payments or incurred any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Exhibit 3 and Appellant Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019 and has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal but did not check off any box on the document to indicate the basis for the Appeal. The Appellant submitted a copy of Form 1095-C 2019 issued by their employer with the Appeal request and initially testified that this document verifies that the Appellant had health insurance in 2019. This is discussed further below.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$34,784 could afford to pay \$145 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Suffolk County, could have purchased private insurance for \$418 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Form 1095-C 2019 submitted by the Appellant verifies that the Appellant's employer provided access to employer sponsored health insurance to the Appellant at a monthly cost of \$99.10. This is less than the \$145 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019.

Although the Appellant's income of \$34,784 was less than 300% of the federal poverty level, which was \$36,420 in 2019, the Appellant would not have been eligible for ConnectorCare because the Appellant had access to affordable employer sponsored health insurance (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that the Form 1095 C 2019 verifies that the Appellant had health insurance for all of tax year 2019. The Appellant was advised that this form verifies that insurance was offered but does not establish that the Appellant enrolled in this insurance. The Appellant was informed that the record could be left open to allow them to submit additional evidence of enrollment from their employer, but the Appellant declined. The Appellant then testified that they believed that they were covered under MassHealth. The Appellant said that they were covered under MassHealth in 2018 and never received a termination notice. The Appellant's testimony was inconsistent and therefore not credible.

The Appellant testified to monthly living expenses of \$2,568-\$2,648. The Appellant did not submit any evidence that they faced eviction, received utility shut off notices or experienced a family or other emergency that resulted in unexpected expenses in tax year 2019. Given that the Appellant had access to employer sponsored health insurance at a cost of \$99.10 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-390

Appeal Decision: Appeal Approved in Part and Denied in Part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 10, 2020

Decision Date: August 19, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant, listed as the primary taxpayer, appeared at the hearing, which was held by telephone, on August 10, 2020. The Appellant's Spouse did not appear. 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 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 30, 2020.
- Exhibit 4: A letter written by the Appellant in support of this Appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 29 and their Spouse age 30, filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Worcester County, MA in 2019 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2019 was \$78,939 (Exhibit 2).
4. The Appellants did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellants have both been assessed a twelve-month tax penalty for 2019. The Appellants filed an appeal of the assessment in March 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple , with no dependents claimed, with an annual adjusted gross income of \$78,939 could afford to pay \$526 per month for health insurance. In accordance with Table 4, the Appellants, with one person age 30, living in Worcester County, could have purchased private insurance for \$514 per month for a plan covering both household members (Schedule HC for 2019). Private insurance was affordable for the Appellants.
8. The Appellant testified that neither household member had access to employer sponsored health insurance in tax year 2019 (Appellant Testimony).
9. The Appellants would not have been eligible for ConnectorCare coverage in 2019 because their income of \$78,939 was greater than 300% of the federal poverty level, which was \$49,380 for a household of two in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that the adjusted gross income figure does not adequately address their household's financial circumstances for all months of tax year 2019. The Appellant said that they are employed as a police officer eight hours per week earning \$16 per hour on a regular basis. In addition to this steady income, the Appellant stated that they work details in several communities and are paid \$55 per hour for this work. The Appellant explained that the detail work is seasonal, and they generally have access to this increased income for the months of May through October. The Appellant said that their Spouse works part time for 30-36 hours weekly (Exhibit 4 and Appellant Testimony).
11. The Appellant was asked if they attempted to obtain health insurance during the months their income was higher, and the Appellant said that they did not because paying the premiums was not sustainable for the year (Appellant Testimony).
12. The Appellant's monthly living expenses of \$4,583 included: mortgage and taxes-\$1,700; heat-\$150; electricity-\$125; cable-\$136; telephones-\$170; two car loans -\$756; car insurance-\$250; gasoline-\$433; food-\$650; a motorcycle payment of \$183 and motorcycle insurance of \$30 (Appellant Testimony).
13. The Appellant did not submit any evidence that they fell behind in their mortgage or utility payments. The Appellant said that their parent passed away in 2019 and the Appellants paid approximately \$5,000 to help with funeral and burial expenses (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 Appellants did not have health insurance for any months in tax year 2019 and have consequently been assessed a twelve-month penalty. The Appellants submitted a statement of grounds for this appeal and checked "other" as the basis for the appeal. The Appellants submitted a letter explaining their financial circumstances with the Appeal request.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of \$78,939 could afford to pay \$526 per month for health insurance. In accordance with Table 4, the Appellants with one person age 30, living in Worcester County, could have purchased private insurance for \$514 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellants in 2019.

The Appellant testified that they and their Spouse did not have access to employer sponsored health insurance in tax year 2019. The Appellants would not have been eligible for ConnectorCare because their income of \$78,939 was greater than 300% of the federal poverty level, which was \$49,380 for a household of two in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04). Since affordable insurance was available to the Appellants in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that the adjusted gross income figure does not adequately explain their financial circumstance for all of tax year 2019. The Appellant stated that they are employed for eight hours weekly as a police officer earning \$16 per hour on a consistent weekly basis. The Appellant said that their spouse was employed at a coffee shop working thirty to thirty-six hours weekly. The Appellant explained that they supplement their limited weekly income by working police details at a rate of \$55 per hour, but this income is seasonal. The Appellant said that from May through October details are available but for the months of November through April the work drops off significantly. The Appellant was asked why they did not attempt to obtain health insurance during the six month period their income was higher and the Appellant said that paying the premiums was not sustainable when their income was reduced for the other six months of the year.

The Appellant testified to significant monthly living expenses of \$4,583. Given the season nature of the Appellant's income, the cost of purchasing health insurance for the periods of January through April and November through December would have caused the Appellants to experience financial hardship. For the period of May through October in 2019, the Appellant's income was significantly higher. The Appellants did not fall behind in their mortgage payments and did not receive any utility shut off notices in 2019. Sadly, the Appellant's parent passed away in 2019 and the Appellant paid \$5,000 toward final disposition expenses. The Appellants failed to demonstrate that purchasing health insurance while their income was increased for the months of May through October would have caused the Appellants to experience substantial financial hardship. See 956 CMR 6.08. The Appellants 12-month penalties are both reduced to six months to reflect their fluctuation in income.

PENALTY ASSESSED

Appellant Primary: Number of Months Appealed: 12 Number of Months Assessed: 6

Appellant Spouse: Number of Months Appealed: 12 Number of Months Assessed: 6

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-392

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 10, 2020

Decision Date: August 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 10, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The 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 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 30, 2020, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 45 years old in January 2019. The Appellant filed their Federal Income Tax return as Single Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$30,382 (Exhibit 2 and Appellant Testimony).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 2, 3 and Appellant Testimony).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single head of household, with one dependents claimed, with an annual adjusted gross income of \$30,382 could afford to pay \$109 per month for health insurance. In accordance with Table 4, the Appellant, age 45, living in Norfolk County, could have purchased private insurance for \$855 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified credibly that they did not have access to employer sponsored health insurance in 2019 (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the federal poverty level, which was \$49,380 for a family of two in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's 2019 monthly living expenses of \$2,388 included: rent-\$1,280; gas water heater-\$100; electricity-\$300; telephone-\$100; car insurance-\$100; gasoline-\$108 and food-\$400. The Appellant testified that they struggled to meet these expenses and were behind in everything. The Appellant explained that they were facing eviction in late 2018 and got behind in utility payments as they struggled to pay their rent. The Appellant's credible testimony is supported by shut off notices the Appellant received from Columbia Gas and Eversource in tax year 2019 (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2019. The Appellant has been assessed a twelve-month penalty. The Appellant asserts that the penalty should not apply in this case because of financial hardship. To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single head of household with one dependent claimed with an adjusted gross income of \$30,382 could afford to pay \$109 per month for health insurance. According to Table 4, the Appellant, age 45, living in Hampden County, could have purchased a private insurance plan for \$855 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant did not have access to employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$49,380. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they were facing eviction in late 2018 and got behind in their utility payments while struggling to keep up with their rental obligation. The Appellant verified substantial monthly living expenses and testified that they struggled to meet these expenses with their limited income. The Appellant's credible testimony is supported by shut off notices issued to the Appellant in tax year 2019 by Eversource and Columbia Gas. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-394

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 10, 2020

Decision Date: August 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 10, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The 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 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on February 25, 2020.
- Exhibit 4: Appellant's letter in support of this appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 33 years old in February 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampshire County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$40,670 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in February 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$40,670 could afford to pay \$252 per month for health insurance. In accordance with Table 4, the Appellant, age 33, living in Hampshire County, could have purchased private insurance for \$250 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant submitted a copy of Form 2019 1099-HC verifying that the Appellant had access to employer sponsored health insurance at an average cost of \$92.72 per month. This is less than the \$252 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019 (Exhibit 4 and Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant had access to affordable employer sponsored health insurance and the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant's monthly living expenses of \$2,387 included: rent-\$975; electricity-\$90; gas heat-\$125; cable-\$99; food-\$400; car payment-\$195; car insurance-\$120; gasoline-\$260; telephone-\$90 and trash removal-\$33. For the months of January and February the Appellant had an additional car payment of \$417. The Appellant chose to pay off the balance of the loan by making a payment of \$2,400 in March. The Appellant said that they bought a car as a gift for a partner in 2013. The Appellant explained that they are trying to save money to purchase a home and was paying down their debts to improve their financial condition. The Appellant's self-prepared budget included significant debt for six credit cards. The Appellant's monthly payments totaled approximately \$689 (Exhibit 4 and Appellant Testimony).
11. The Appellant did not submit any evidence or testimony to establish that they fell behind in their rent or utility payments or incurred any unexpected expenses due to a family emergency or other unexpected natural or human caused disaster (Exhibit 4 and Appellant Testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$40,670 could afford to pay \$252 per month for health insurance. In accordance with Table 4, the Appellant, age 33, living in Hampshire County, could have purchased private insurance for \$250 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant submitted documentation verifying that the Appellant's employer did offer employer sponsored health insurance with an average monthly cost to the Appellant of \$92.72. This is less than the \$252 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019. The Appellant chose not to enroll in this insurance. Because the Appellant had access to affordable employer sponsored insurance and the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 in 2019, the Appellant was not eligible for ConnectorCare (See Table 2 of Schedule HC-2018 and 956 CMR 12.04).

The Appellant submitted a copy of their self-prepared annual budget and documentation of significant credit card debt. In addition to the credit card payments for unidentified expenses, the Appellant's essential monthly living expenses totaled approximately \$2,298. In addition to these expenses in January and February the Appellant paid \$417 on a car loan for a vehicle that they gifted to a partner in 2013. The Appellant chose to pay \$2,400 to close out this loan in March 2019. The Appellant explained that they were trying to pay down their debt in 2019 in order to improve their financial situation to be able to purchase a home. While this was the Appellant's choice to make, the Appellant could have continued to make monthly payments and use less than half of that amount to pay the annual premiums of \$1,127 for their employer sponsored health insurance.

The Appellant did not submit any evidence that they faced eviction, received utility shut off notices or experienced a family or other emergency that resulted in an unexpected increase in expenses in tax year 2019. Given that the Appellant had access to affordable employer sponsored health insurance at an average cost of less than \$93 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's twelve-month penalty is upheld.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __12____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-396

Appeal Decision: The penalty is overturned in full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: August 11, 2020
Decision Date: August 26, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 11, 2020. The Appellant also had a family friend at the hearing acting as support. The procedures to be followed during the hearing were reviewed with the Appellant and the family friend who were then then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2019 Signed by Appellant on 3/30/20.	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 7/14/20	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 41 in 2019, and lived in Middlesex County. (Exhibit 1, Testimony of Appellant).
2. Appellant worked part time at the beginning of the year, was unemployed in June, and became full time in November 2019. (Testimony of Appellant).
3. Appellant obtained new part time employment in August 2019 which became full time in December. (Testimony of Appellant).
4. The Appellant could not afford the cost of the Employer monthly premium of approximately \$215 when she was eligible as a full-time employee in November 2019. (Testimony of Appellant).

5. The Appellant testified she was able to obtain MassHealth in 2020. (Testimony of Appellant).
6. The Appellant's Federal Adjusted Gross Income for 2019 was \$25,241(Exhibit 1).
7. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. The Appellant testified that her income was not enough to pay for insurance. (Testimony of Appellant, Exhibit 2).
9. The Appellant testified she had to take a loan to afford her living expenses from a family member when she was unemployed. (Testimony of Appellant).
10. The Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$500/month, Cell Phones \$90, Car Insurance \$140, Gas \$215, Food \$237, Loan Repayment \$200, totaling: \$1,182. (Testimony of Appellant).
11. According to Table 3 Appellant could have afforded \$88.34 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$306.00 per month. (Testimony of Appellant).
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit grounds with her appeal that that the expense of purchasing health insurance was not affordable to her because of Other. The Appellant also testified during the hearing that the expense of purchasing health insurance would have also caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibit 2).

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

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

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

The evidence provided by the Appellant established that her income for 2019, \$25,241, was less than 300% of the federal poverty level, which for 2019 was \$36,240.00 for a family size of one. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$25,241 in 2019 and could have afforded \$88.34 per month. According to Table 4, Appellant, age 41 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$306.00 per month for an individual plan. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer sponsored health insurance ("ESI"). The Appellant credibly testified that she did not have access to health insurance through her employer until November when she began working full time and when she became eligible she could not afford the premium. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). The Appellant's ESI was not affordable where the \$215 monthly premium was more than 9.86% of the Appellant's AGI, or $\$2488.76/12 = \207.40 .

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

The Appellant credibly testified had the following monthly expenses for basic necessities in 2019: Rent: \$500/month, Cell Phones \$90, Car Insurance \$140, Gas \$215, Food \$237, Loan Repayment \$200, totaling: \$1,182. (Testimony of Appellant). The Appellant testified she had to take a loan to afford her living expenses from a family member when she was unemployed.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the Appellant was working part time for a majority of the year, was unemployed for part of the year, and during that time she was unable to afford health insurance. Moreover

the Appellant's income was subsumed in her basic necessary monthly expenses, and would not have allowed the Appellant to afford the cost of a premium in the amount of \$88.34. It is concluded that the Appellant established through substantial and credible evidence that she did experience a financial hardship within the meaning of 956 CMR 6.08(1) (e) which allows consideration of financial issues raised by the Appellant on appeal.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19410

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 13, 2020

Decision Date: August 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on March 31, 2020 with letter in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated July 14, 2020 for August 13, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 44 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided on Nantucket in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$30,591 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant worked in a store during 2019. She was paid \$18 an hour and worked between 30 and 40 hour a week. Her hours varied from week to week (Testimony of Appellant).
5. Appellant was not offered health insurance through her job (Testimony of Appellant).
6. Appellant had health insurance for part of 2018. She was divorced and had coverage under her ex-spouse's plan. At some point, she was dropped from that plan. Appellant tried to obtain health insurance several times in 2019. She thought she might be eligible for MassHealth, but she was not. She also tried to get health insurance through the Connector, but she thought she could not obtain coverage because she had missed the open enrollment period. She did finally obtain coverage through the Connector as of November 1, 2019. As of the date of this hearing, Appellant still had coverage (Testimony of Appellant, Exhibit 2).

7. Appellant has been assessed a penalty for seven months, January through July. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$30,591 could afford to pay \$127 per month for health insurance. According to Table 4, Appellant, 44 years old and living in Nantucket County, could have purchased insurance for \$463 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

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

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

13. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$300; heat and electricity-\$0.00; telephone-\$90; food-\$600; car payment-\$369; car insurance-\$50; gas-\$100; clothing-\$50. Appellant had \$45,000 of debt. During 2019, she paid \$1,000 a month to pay off the debt. She also had to pay \$4,000 for dental care and \$1,000 for moving expenses. She had moved to Nantucket in 2018, but did not bring her belongings and furnishings over until 2019 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

The appellant has been assessed for a penalty for January through July, 2019. The appellant has appealed the assessment. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards as of November 1, 2019. Since Appellant is entitled to a three-month grace period before obtaining coverage at the beginning of November, her penalty for August through October, 2019 is waived. Exhibits 1, 2, and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$30,591 could afford to pay \$127 per month for health insurance. According to Table 4, Appellant, 44 years old and living in Nantucket County, could have purchased insurance for \$463 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

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

Appellant could have had affordable coverage through the ConnectorCare program. Her annual Federal Adjusted Income was \$30,591, less than the income limit for one person (\$36,420). She also had no access to employer-sponsored insurance. See 956 CMR 12.04 (3).

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

Appellant had the following expenses for basic necessities in 2019: rent-\$300; heat and electricity-\$.000; telephone-\$90; food-\$600; car payment-\$369; car insurance-\$50; gas-\$100; clothing-\$50. Appellant had \$45,000 of debt. During 2019, she paid \$1,000 a month to pay off the debt. She also had to pay \$4,000 for dental care and \$1,000 for moving expenses. She had moved to Nantucket in 2018, but did not bring her belongings and furnishings over until 2019. See the testimony of Appellant, which I find to be credible.

Appellant's monthly income before taxes averaged \$2,500 a month. Her monthly expenses for basic necessities, including debt payment and dental care expenses amounted to about \$2,600. Appellant ran a deficit each month. See the testimony of the appellant which I find to be credible and Exhibit 2. Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e).

I also note that Appellant obtained health insurance as of November, 2019 and still had that coverage as of the date of the hearing.

Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-415

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 14, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 14, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated July 14, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 1, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and is single. He lives in Suffolk County, Massachusetts.
2. Appellant work in the restaurant business. The company he worked for did not offer health insurance..
3. Appellant had health insurance when he moved from Ohio to Massachusetts through his mother. Appellant's mother lost her job and her health insurance and Appellant lost his health insurance. Appellant did not know health insurance was mandatory in Massachusetts because it was not mandatory in Ohio. Appellant did not find out about the necessity of health insurance in Massachusetts until he filed his taxes.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$1,465.00, consisting of rent \$915.00, heat & light \$100.00, internet and cable \$55.00, food \$240.00, entertainment \$60.00, toiletries \$40.00 clothing \$30.00, transportation \$25.00.
6. The Appellant did not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear Appellant's appeal under this ground.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$30,424.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Suffolk County for a 24 year old single person was \$257.00. The tables reflect that Appellant could afford \$126.76. 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 not submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal but should have under , “ During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear Appellant’s appeal under this ground.

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

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

Appellant reported a federal AGI of \$30,424.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay

\$126.76 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *id.* at Table 4.

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

Appellant had health insurance through his mother in Ohio for the first few months of 2019. Appellant’s mother lost her job and her insurance and Appellant lost his health insurance as well. Appellant did not know health insurance was mandatory in Massachusetts because he had previously lived in Ohio where health insurance was not mandatory. He was not offered health insurance from his company. Private insurance would have cost \$257.00, which he could not afford.

Appellant is deemed to afford \$126.76 for health insurance coverage because of his income. Private insurance in the market place was \$257.00 per month, which is more than he could afford. Appellant has health insurance for 2020.

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

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

PENALTY ASSESSED

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-417

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 14, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 14, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated July 14, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 1, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant work in the finance business.
3. Appellant had health insurance through his father however his father was laid off and Appellant lost his health insurance and Appellant thought the penalty for not having health insurance was eliminated. Once Appellant turned 26 he applied for and obtained health insurance and has had it ever since.
4. Appellant does have health insurance in 2020.
5. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “Other. During 2019 oither circumstances, such as applying the affordability Tables in Schedule HC to yo9u is inequitable”.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance,because Appellant’s income of \$59,427.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 25 year old single person was \$257.00. The tables reflect that Appellant could afford \$396.18. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , “Other. During 2019 oither circumstances, such as applying the affordability Tables in Schedule HC to yo9u 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$59,427.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$396.18 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$257.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant had health insurance through his father however his father was laid off and Appellant lost his health insurance and Appellant thought the penalty for not having health insurance was eliminated. Once Appellant turned 26 he applied for and obtained health insurance and has had it ever since.

Appellant is deemed to afford \$396.18 for health insurance coverage because of his income. Private insurance in the market place was \$257.00 per month, which is less than he could afford. Appellant has health insurance for 2020.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-420

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 10, 2020

Decision Date: August 25, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 10, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 1A—BC/BS insurance information
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 29-years-old, is single, and does not have children. She resided in Plymouth County, MA in 2019. She had health insurance for the months of January through May in 2019. (Testimony, Ex. 2)
2. The appellant was employed from January through May, 2019 during which time she had employer health insurance. She began a new job in July, 2019 and the employer offered insurance for which she was immediately eligible. Her share of the lowest cost individual plan was \$577.44 which she could not afford. She continued to work for the same employer until she was advised that she was being laid off at the time of the instant hearing. (Testimony, Exs. 1A, 2)
3. After the appellant's separation from employment in May, 2019, she applied for health insurance through the Health Connector and was advised that she was eligible for coverage without financial help. She selected a plan and attempted to enroll, but was notified that she was ineligible due to "another person

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

in her household". She was confused as she is the only person in her household and does not have any dependents. She contacted the Connector and was told that she had made a mistake on her application and that she should go back and repeat the process. She attempted to enroll for a second time and received the same notice in July or August. She did not retain either notice for her records. (Testimony)

4. Following the determinations from the Health Connector, the appellant investigated private health insurance options. She was bombarded with "spam" calls and gave up. (Testimony)
5. The appellant reported an adjusted gross income of \$47,213.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. From June through December, 2019, the appellant had regular monthly expenses of approximately \$535.00 for heat (\$37.00), electricity (\$59.00), automobile loan and insurance (\$350.00), and gasoline (\$89.00). In addition, the appellant paid \$1135.00/month for one student loan, \$640.00/month for a second student loan, and \$62.00/month for credit card debt. (Testimony, Ex.1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

The appellant testified credibly that she had employer health insurance from January through May when she was separated from employment. She testified that she began a new job in July and was eligible for employer health insurance, but could not afford the cost. She testified that she applied for insurance through the Health Connector, and was determined eligible for unsubsidized coverage, but ran into technical issues when she tried to enroll twice. She testified that she subsequently investigated private health insurance, but was inundated with spam calls and gave up.

The evidence provided by the appellant established that her income for 2019, \$47,213.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$42,491.00 and \$48,560.00 is deemed to be able to afford a monthly premium of \$299.00 (7.60% of

\$47,213.00/12). Table 4 of the Premium Schedule indicates that a 28-year-old individual (the age of the appellant in 2019) in Plymouth County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The appellant provided information which indicated that the lowest cost for an individual plan was \$577.44 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86% or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was \$577.44. That cost is more than 9.86% of the appellant's projected household MAGI for 2019 (i.e. 9.86% of \$47,213.00 is \$4655.20 or \$387.93/month).² Hence, since the cost of employer insurance is more than \$387.93/month, she is considered not to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$2372.00, including her student loans and credit card debt. Those expenses were less than her regular monthly pre-tax income of approximately \$3934.00, thereby making a private health insurance premium of \$257.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1562.00 per month is not a panacea, it does not appear on its face that the payment of a private premium for health insurance would have caused an undue hardship.

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

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. The appellant testified that she applied for insurance through the Health Connector and on the private market and was unable to enroll through the Connector for unexplained issues, and was overwhelmed by spam calls from private vendors. While she did not indicate that she made an effort to enroll in insurance for 2020, she testified that she had just been laid off. Assessing a penalty at this time would only exacerbate the difficult financial circumstances the appellant is currently facing.

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

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-421

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 10, 2020

Decision Date: August 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 10, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2019
- Ex. 1A—2019 Form 1095-B
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex.3--Notice of Hearing

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

- Ex. 4—Summary of Health Insurance Plan Benefits

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 24 years-old and is single. In 2019, she had health insurance for the entire year. (Testimony, Ex. 1A)
2. The appellant has had health insurance through her father's employer for several years. Until 2019, there had never been an issue with the insurance plan and its compliance with Massachusetts minimum

1

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

creditable coverage (MCC) standards. The plan changed for 2019 and prior to filing her 2019 taxes, the appellant received a Form 1095-B which indicated that she was covered for all twelve months of 2019. She did not receive a Form 1099-HC indicating that she had insurance which met state MCC standards. When she filled out her Schedule HC as part of her 2019 Massachusetts tax return, she indicated that she did not have MCC coverage for any part of the year. Until that point, the appellant was unaware of the fact that her insurance did not meet state standards. (Testimony, Ex. 1)

3. The appellant's health insurance plan offered the following benefits for 2019: physician and specialty care services; preventive care; emergency room and urgent care; labs, x-ray, and major diagnostic tests; rehabilitation services; mental health and substance abuse services; and hospital services. The plan had no deductible for network providers and a \$200 deductible for out of network providers for an individual. There was an out-of-pocket maximum per individual of \$1000.00 and per family of \$2000.00. (Ex. 4) ²
4. Massachusetts MCC-compliant plans must provide the following coverage: ambulatory patient services, diagnostic imaging and screening procedures, emergency services, hospitalization, maternity and newborn care, medical/surgical care, mental health and substance abuse services, prescription drugs and radiation/chemotherapy. Annual deductibles cannot exceed \$2000.00 for an individual and \$4000.00 for a family for in-network services. Out-of-pocket spending for in-network covered services cannot exceed \$5000.00 for an individual and \$10,000.00 for a family. Prescription drug deductibles cannot exceed \$250.00 for an individual and \$500.00 for a family, and there can be no limits on prescription drug benefits and for the amount paid for a particular illness in a single year. See 956 CMR 5.03. <http://www.mass.gov/dor/tax-professionals/current-year-tax-information/health-care-faqs-for-insurance-carriers/general-questions.html>

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 for "other" reasons.

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

² The summary does not provide information on pharmacy coverage and indicates that the matter is addressed in a separate document which was not included with the summary.

three months are not subject to penalty. Since the appellant is considered to have been uninsured for the entire year due to the MCC issue, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she has been insured under her father's employer provided health insurance for several years, and that the plan changed for 2019. She testified that when she prepared her 2019 tax return, she had not received a Form 1099-HC and indicated on her Schedule HC that she did not have MCC compliant insurance for any part of the year. Finally, she testified that she was unaware of any compliance issues with her insurance until that point in time.

The appellant submitted a summary of benefits under her insurance plan in response to an open record request. The summary was not comprehensive and did not include any information about prescription drug coverage. As such, it was not possible to do a side-by-side comparison with Massachusetts requirements in order to determine where the plan deviates from state standards. Notwithstanding this lack of information, since the appellant had no knowledge of MCC issues with her plan until early 2020, there is nothing she could have done to remedy the situation or look into possible alternatives for 2019.

Based on the totality of the evidence, it is concluded that the appellant was unaware of the compliance issue until early 2020. Furthermore, a review of the summary of benefits indicates that the plan offered adequate coverage and covered a "broad range of medical benefits" as specified in the Massachusetts regulations. Accordingly, the appellant's request for a waiver of the penalty is **granted** for the months in question. The determination that she is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-433

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 17, 2020

Decision Date: August 25, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Notice of Hearing dated July 16, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 4, 2020
- Exhibit 4: Written Statement of Appeal Dated April 4, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-four years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant work in the legal business.
3. Appellant had health insurance for part of the year in 2019 but was laid off from his independent contract. The staffing agency he worked for offered health insurance but only after you had worked for a certain amount of time and Appellant had not worked that amount of time. Appellant was unemployed for several months of the year in 2019.
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$2,115.00, consisting of rent \$1,150.00, heat & light \$50.00, internet and cable \$60.00, food \$400.00, entertainment \$50.00, credit card \$150.00 toiletries \$10.00 clothing \$30.00, car gas \$20.00, student loan \$150.00, uber \$45.00.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , "Other. During 2019 oither circumstances, such as applying the affordability Tables in Schedule HC to you is inequitable" and "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear Appellant's 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 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance,because Appellant's income of \$36,116.00 was less than \$36,420.00. The monthly premium for health insurance available on the private market in Middlesex County for a 43 year old single person was \$306.00. The tables reflect that Appellant could afford \$150.48. 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-2019 under the grounds for Appeal , “Other. During 2019 oither circumstances, such as applying the affordability Tables in Schedule HC to you is inequitable” and “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. I will hear Appellant’s 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. *See* Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; *see also* 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

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

Appellant reported a federal AGI of \$36,116.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the

Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$150.48 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$306.00 monthly for coverage with zero dependents *Id.* at Table 4.

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

Appellant had health insurance for part of the year in 2019 but was laid off from his independent contract. The staffing agency he worked for offered health insurance but only after you had worked for a certain amount of time and Appellant had not worked that amount of time. Appellant was unemployed for several months of the year in 2019 and could not afford the health insurance cost during that time..

Appellant is deemed to afford \$150.48 for health insurance coverage because of his income. Private insurance in the market place was \$306.00 per month, which is more than he could afford. Appellant has health insurance for 2020.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-434

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 17, 2020

Decision Date: August 25, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone, on August 17, 2020.

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 16, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal dated March 27, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-five years old and his wife is forty -two years old. They live in Franklin County, Massachusetts.

2. Appellant stated that in 2019 the Appellant worked for a construction company that did not offer health insurance. Appellant tried to use the Health Connector system but could not figure it out. Appellant did not know his family might qualify for reduced health insurance. Appellant was informed of the Health Connector telephone numbers to call for assistance.
3. Appellants do not have health insurance in 2020.
4. The Appellants monthly expenses totaled \$3,913.00, consisting of rent \$1,400.00, heat & light \$200.00, internet & cable \$65.00, cell phone \$100.00, car payment \$600.00, car insurance \$88.00, car gas \$240.00, food \$800.00, entertainment \$50.00, clothing \$100.00, toiletries \$20.00, significant expenses \$250.00.
5. The appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, "During 2019, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, primary telephone" but also should have appealed under "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." I will hear their appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$44,725.00 was less than \$62,320.00. The monthly premium for health insurance available on the private market in Franklin County for a 41 year old married person with one dependent was \$688.00. The tables reflect that Appellants could afford \$182.62. 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-2019 under the grounds for Appeal, “During 2019, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities (gas, electric, heating oil, primary telephone” but also should have appealed under “During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.” I will hear their 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 2019, 150 percent of the FPL was \$31,170.00 for a married couple 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 2019 income was more than 150 percent of the FPL, making them potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to them in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant stated that in 2019 the Appellant worked for a construction company that did not offer health insurance. Appellant tried to use the Health Connector system but could not figure it out. Appellant did not know his family might qualify for reduced health insurance. Appellant was informed of the Health Connector telephone numbers to call for assistance.

Appellants reported a federal AGI of \$44,725.00 in 2019, 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 2019 Massachusetts Schedule HC, Appellant could afford to pay \$182.62 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to them from the Premium Tables, at a cost of \$688.00 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).

Appellants are deemed to afford \$182.62 for health insurance coverage because of their income. Private insurance in the market place was \$688.00 per month, which is more than they could afford. . On these facts, I find that Appellants have shown that they were precluded from purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are exempt from a tax penalty for their non-compliance with the individual mandate.

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

PENALTY ASSESSED

Number of Months Appealed: ____24____ Number of Months Assessed: ____0____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-447

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

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/6/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence submitted with the Appeal (1 PP).
- Exhibit 2(b) Appellant's Supporting Documents 2019 Bank Statements (11 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 7/16/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 26 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time from January through August 2019 where he earned \$15/hour. (Testimony of Appellant).
3. Appellant testified that his Employer did not offer health insurance because of the small number of employees. (Testimony of Appellant).
4. Appellant investigated MassHealth but testified he did not qualify because his income was too high. (Testimony of Appellant).

5. Appellant obtained a new position in September 2019 where he obtained Employer Sponsored Insurance (“ESI”) as is insured at the time of the hearing. (Testimony of Appellant).
6. Appellant’s Federal Adjusted Gross Income for 2019 was \$38,942 (Exhibit 1).
7. Appellant has been assessed a tax penalty for five (5) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$770, Utilities \$75, Internet \$75, Cell Phone \$45, Car Insurance \$130, Renter’s Insurance \$17, Gas \$120, Car Loan \$188, Food \$400, Student Loans (2) \$175, Credit Card \$150, Car Repairs \$100, totaling \$2,245. (Testimony of Appellant).
9. According to Table 3 Appellant could have afforded \$241.76 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with his appeal that during 2019: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, and 3) that he incurred an unexpected natural or human caused event causing substantial household or personal damage to him. (Exhibit 2).

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

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant

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

According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$38,942 in 2019 and could have afforded \$241.76 per month. According to Table 4, Appellant, age 26 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019). Employer Sponsored Insurance (“ESI”) was also not available to the Appellant as he credibly testified that his employer did not offer health insurance. (Testimony of Appellant).

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

This 26-year-old Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019. Rent \$770, Utilities \$75, Internet \$75, Cell Phone \$45, Car Insurance \$130, Renter’s Insurance \$17, Gas \$120, Car Loan \$188, Food \$400, Student Loans (2) \$175, Credit Card \$150, Car Repairs \$100, totaling \$2,245. He testified credibly that he now has employer health insurance when he obtained full time employment in September 2019.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The Appellant testified that he could not afford \$241.76 per month given his testimony that his gross pay was approximately \$600 a week before taxes. I find that his basic monthly expenses of \$2,245 were subsumed in his net take home pay. It is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant’s penalty is, therefore, waived.

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

PENALTY ASSESSED

Number of Months Appealed: _____5_____ Number of Months Assessed: _____0_____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-450

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 17, 2020

Decision Date: August 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 17, 2020. The Appellant Spouse was not present, but the Appellant testified he was authorized to represent her Spouse at the hearing. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/24/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documents 2018 C. 13 Trustees Report (3 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 7/16/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return reported they were married filing jointly with a family size of 2. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$45,597 (Exhibit 1).
3. Appellant testified her Spouse was laid off in 2018 and they could not afford COBRA, and lost their health insurance. (Testimony).

4. Appellant testified they could not afford to purchase health insurance because they were working through debt and had to file Chapter 13 Bankruptcy in 2018 (Testimony of Appellant, Exhibit 2(a)). (Testimony).
5. Appellant testified her Spouse obtained full time employment in 2019 but could not afford the premiums. She did not know the amount but testified they would not have been able to afford monthly necessities and would have been left with nothing. (Testimony, Exhibit 2(a)).
6. Appellant testified they were able to obtain Connector Care in August 2020 at a premium of approximately \$260/month. (Testimony).
7. Appellant testified she worked part time, her spouse full time, and that her spouse's hours were reduced for a period of time during Covid. (Testimony).
8. Appellant testified they paid their Child's last year of college on a payment plan of \$251. (Testimony).
9. Appellant had the following monthly expenses for basic necessities in 2019: Mortgages (2) \$1,440, Utilities: \$250, Cell Phone/Landline \$110, Car Payment \$353, Car Insurance \$300, Chapter 13 Reorganization Payment \$331, Food and Incidentals \$400, Child's Tuition Plan \$251, totaling \$3,435/month. (Testimony of Appellant).
10. Appellants have been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. According to Table 3 Appellant could have afforded \$281.73 per month for health insurance in 2019. According to Table 4 Appellants could have purchased insurance for \$836 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

The Appellant credibly testified that they could not afford employer sponsored health insurance where they working through debt and forced to file Bankruptcy in 2018.

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

According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$45,997.00 in 2019 was less than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two, and they could have afforded \$281.73 per month to purchase affordable insurance. Pursuant to the Code of Massachusetts Regulations, 956 CMR 6.05(1), the Connector has established an affordability schedule that sets forth the percentage of an individual's adjusted gross income which he can be expected to contribute toward the cost of private health insurance that meets minimum creditable coverage standards. Table 3 of the Affordability Schedule indicates that the Appellants filing married jointly with no dependents with a federal adjusted gross income of \$45,997.00 and higher is deemed to be able to afford a monthly premium of \$281.73 (7.35% of \$45,997.00). According to Table 4, Appellants, age 57 and 56, living in Hampden County during the time they were being penalized for not having insurance, could have purchased insurance for \$836.00 per month, more than the monthly amount deemed affordable from Table 3. Individual coverage was not affordable through the individual market for the Appellants in 2019 (Schedule HC for 2019).

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

The Appellant testified that they had the following monthly expenses for basic necessities in 2019: Mortgages \$1,440, Utilities: \$250, Cell Phone/Landline \$110, Car Payment \$353, Car Insurance \$300, Chapter 13 Reorganization Payment \$331, Food and Incidentals \$400, Child's Tuition Plan \$251, totaling \$3,435/month.

The evidence presented by the Appellants in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive their penalty for the months in question. The Appellant testified that in 2019 they incurred basic monthly expenses of approximately \$3,435.00. Those expenses were significantly more than their regular monthly net take home pay, thereby making a private health insurance premium of over \$281.73/month unmanageable, and would have caused an undue hardship.

Accordingly, it is concluded that the Appellants did establish through substantial and credible evidence that they experienced other circumstances including a financial hardship within the meaning of 956 CMR 6.08(1)(e), (3). Based on the totality of the evidence, it is concluded that the appellants were exempt from the individual mandate and their request for a waiver from the penalty is **approved**. The determination that the appellants are eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellants still do not have health insurance, and if their income and employment have not changed, they are advised to investigate their eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-451

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

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/3/2020. (2 PP).
Exhibit 3: Health Connector's Notice of Hearing dated 7/16/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 26 in 2019, lived in Essex County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant believed he covered under his Mother's government sponsored insurance until he turned 26. (Testimony of Appellant).
3. The Appellant worked Full-Time in 2019 but his hours varied between 30 and 40 hours a week at \$15/hour. (Testimony).
4. Appellant investigated obtaining employer health insurance, but his employer did not offer same. (Testimony of Appellant).
5. Appellant testified he looked into obtaining government sponsored insurance but could not navigate the

computer and testified he had difficulty getting through. (Testimony of Appellant).

6. Appellant's Federal Adjusted Gross Income for 2019 was \$23,378 (Exhibit 1). (Appellant's Testimony).

7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).

8. Appellant had the following monthly expenses for basic necessities in 2019: Cell Phone \$50, Car Insurance \$400, Food/Incidentals \$250, Gas \$ 80, totaling: \$780.

9. According to Table 3 Appellant could have afforded \$56.50 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted did not choose a statement of grounds for appeal (Ex. 2), for example that the claiming that the individual mandate did not apply to him during 2019 because the Appellant experienced a financial hardship such the coverage would have been unaffordable for him and because of Other: incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. See 956 CMR 6.08. et. seq. The appellant did not have insurance from January through December. (See Exhibit 1).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant

through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant investigated obtaining employer health insurance but it was not offered through his employer. (Testimony of Appellant).

The evidence provided by the Appellant established that his income for 2019, \$23,378.00, was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$23,378 in 2019 and could have afforded \$56.50 per month. According to Table 4, Appellant, age 26 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

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

This 26-year old Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Cell Phone \$50, Car Insurance \$400, Food/Incidentals \$250, Gas \$ 80, totaling: \$780.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Where the Appellant hours varied between 30 and 40 hours a week, and he was paid at \$15/hour, it is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, hhe is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA19-452

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

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/15/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence submitted with the Appeal (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 7/16/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was married filing separate, was age 23 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant was employed for a week early in January 2019 and thereafter was out of work until June 2019. (Testimony of Appellant).
3. The Appellant was living at another address at the beginning of the year which he was unable to afford. Thereafter he had to stay with friends and was homeless for a portion of the year. (Testimony of Appellant).

4. The Appellant and his Spouse separated reducing the income available to purchase health insurance. (Testimony and Exhibit 2(a)).
5. The Appellant obtained full time employment in June where he was paid \$15/an hour and he took home approximately \$700-800 on a biweekly pay period. (Testimony of Appellant).
6. The Appellant missed the enrollment period for obtaining employer sponsored insurance because there were glitches with the payroll company. (Testimony of Appellant).
7. The Appellant became enrolled in employer sponsored insurance in January 2020. (Testimony).
8. Appellant and his Spouse investigated government sponsored insurance but could not afford same. (Testimony of Appellant).
9. Appellant's Federal Adjusted Gross Income for 2019 was \$24,350 (Exhibit 1). (Appellant's Testimony).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant had the following monthly expenses for basic necessities in 2019: Rent \$950, Utilities \$40, Vehicle \$360, Car Insurance \$160, Food \$100 (was reduced do to trips to the food pantry), Cell Phone \$150, 2 Collection matters for credit card, prior housing debt: \$250, totaling: \$2,010.
12. According to Table 3 Appellant could have afforded \$ 85.23 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$231.00 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted statement of grounds for appeal (Ex. 2), for example that the claiming that the individual mandate did not apply to him during 2019 because the Appellant experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08. The Appellant adduced testimony that he was homeless. The Appellant did not have insurance from January through December. (See Exhibit 1).

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

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08. Appellant investigated obtaining employer health insurance but missed the open enrollment period due to an issue with the payroll processor. (Testimony of Appellant).

The evidence provided by the appellant established that his income for 2019, \$24,350.00, was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$24,350 in 2019 and could have afforded \$85.23 per month. According to Table 4, Appellant, age 23 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$231.00 per month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019). The Appellant was unable to enroll in Employer Sponsored Health Insurance because he missed the open enrollment period due to glitches with the payroll processing Company.

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

This 23-year old Appellant credibly testified that he had the following monthly expenses for basic necessities in 2019: Rent \$950, Utilities \$40, Vehicle \$360, Car Insurance \$160, Food \$100 due to trips to the food pantry, Cell Phone \$150, 2 Collection matters for credit card, prior housing debt: \$250, totaling: \$2,010.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The 23 year-old Appellant was homeless for a period of time and was unemployed for most of the first half of 2019. His monthly expenses of \$2,010 were subsumed in his monthly net income of approximately \$1,516 during the time he was employed. It is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a),(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate his eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-453

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 50 years old at the end of 2019.
2. He lived in Suffolk County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$42,239.
5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards from January through

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

September 2019. He did however have MCC-compliant insurance from October through December.

6. At the start of 2019, Appellant worked at a restaurant in Suffolk County. When he had started work there four years earlier, he had received health insurance through that employment. However, during the course of 2018 and into 2019, his hours were steadily reduced because of business conditions until he reached the point that he was only working half-time and was no longer eligible for health insurance. This was his condition during the first part of 2019.
7. In the latter part of 2019, Appellant obtained a new job at a downtown parking facility. This was a full-time job and he was able to obtain health insurance through that position. As a result, he had health insurance for the last three months of 2019 and into the start of 2020.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant testified credibly that he could not obtain insurance through his employment during the nine months that he was uninsured, because his hours had been reduced to the point that he was only working about half time (25-27 hours per week.)

Further, Appellant was not eligible for Connector Care, which is government subsidized insurance. His annual income in 2019 of \$42,239 is above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellant would not have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). During 2019, an individual like Appellant in a household of one person and with an income of \$42,239 was deemed able to afford 7.45% of income for insurance. I base this figure on Table 3, Affordability, which sets out the affordability standards adopted by the Health Connector board and is printed in the instructions to Schedule HC. This means that Appellant was deemed able to afford 7.45% of \$42,239, which amounts to \$3,147 annually or \$262 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 50 years of age, would have had to pay a premium of at least \$406 a month for a health insurance plan. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because Appellant could not have obtained affordable health insurance through any source during the nine months that he was insured in 2019, he is not subject to the individual mandate penalty. Accordingly, I do not have to determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1)(e). Accordingly, the penalty is waived in its entirety.

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 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-456

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (4 pages)

Exhibit 4: Attachments to the Statement of Grounds, including pay stubs, monthly budgets for 2019, charge for employer's insurance, receipts, payment records and bills (27 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 24 years old at the end of 2019.
2. He lived in Norfolk County during 2019. However, he moved in 2020 and was living in Suffolk County at the time of the hearing.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.

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

4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$47,955.
5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards from January through July 2019. He did however have MCC-compliant insurance from August through December.
6. Appellant had graduated from college in the spring of 2018. During the next few months, he worked as a 1099 employee doing construction. During this period of time, he accumulated credit card debt and also had to start repaying student loans. Additionally, because he had not had income taxes withheld from his pay during 2018, he had a significant amount of taxes due when he filed his 2018 taxes in 2019, which he was required to pay off over time.
7. At the end of 2018, he moved to Massachusetts and started residing in Norfolk County.
8. He was able to obtain a position doing freelance work in his chosen field of videography. He was doing this freelance work during the first part of 2019. His hours varied, and his income ranged from a gross of \$1,000 to \$2,000 a month during this time period. See Exhibit 4.
9. In March of 2019, he obtained a full-time job. At that job, he was grossing about \$650 a week, although his salary increased over the course of the year. See Exhibit 4.
10. This job offered him insurance. However, the cost of that insurance was about \$700 a month. See Exhibit 4. Appellant believed that this insurance was not affordable to him given his salary and expenses.
11. During this period of time, Appellant had significant expenses. These included approximately \$300 a month in student loan repayment, about \$380 a month in credit card repayment, and \$200 a month in back taxes. This was in addition to normal expenses of rent, utilities and food. As a result, there were months when Appellant had under \$100 remaining in a month after making these required payments. See Exhibit 4.
12. In August of 2019, Appellant was able to be insured on the policy his domestic partner had obtained through her employment. He was covered under that insurance for the balance of 2019, and was still insured at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, he was

without insurance for only seven months in 2019. Because he is entitled to a three-month gap without penalty, he has only been assessed a penalty for four months.

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

Appellant was not able to obtain affordable insurance through his employment in 2019. For the first two months of the year, he was working a freelance job and so was not eligible to obtain insurance. For the remaining five months that he was unemployed, he could have obtained insurance for \$700 a month. However, that amount would have been unaffordable to him under state affordability standards promulgated by the Health Connector board in accordance with state statute, G.L.c. 111M. Under those standards an individual like Appellant who was single and had an income of \$47,955 was deemed able to afford 7.6% of his income for insurance. (I obtain this percentage figure from Table 3 in the Instructions for the 2019 Schedule HC.) This means that Appellant could afford 7.6% of \$47,955, which amounts to \$3,645 annually or \$304 a month. This means that he could not have afforded the \$700 a month for his employer's insurance.

Further, Appellant was not eligible for Connector Care, which is government subsidized insurance. His annual income in 2019 of \$47,955 is above \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant would have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L.c. 111M, § 2(a). As stated above, Appellant could have afforded \$304 a month for health insurance using affordability standards promulgated by the Health Connector's board. During 2019, a single individual aged 24 and living in Norfolk County could have obtained insurance for a premium of \$257 a month. I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC. Thus, using state-established standards, Appellant was deemed able to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance but didn't in 2019, I must determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). Appellant has stated that, given his financial circumstances, purchasing health insurance would have caused him to experience a serious deprivation of necessities of life. If this was the case, it constitutes grounds for a waiver of the penalty. See 956 CMR 6.08(1)(e). Appellant demonstrated with documentation that he had significant required expenses, such as the requirement to repay back taxes, student loans and credit card bills. These expenses, on top of the normal expenses for food, shelter, and other necessities, left him an insufficient amount of money to purchase health insurance even at a premium of \$257 a month. Further, Appellant did obtain insurance starting in August of 2019, when an affordable option became available and as his monthly income increased. This demonstrated that the period without insurance was a temporary situation caused by his unfortunate financial circumstances in early 2019. Accordingly, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

Number of Months Appealed : ___4___ Number of Months Assessed: ___0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-457

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachments including written statement, pay stubs and evidence of payments and bills) (9 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 at the end of 2019.
2. He lived in Worcester County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$50,965.

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

5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards from January through May 2019. He did however have MCC-compliant insurance from June through December.
6. At the start of 2019, Appellant worked as a driver. He was paid by the hour, and his hours were variable. During the early months of the year, because of business conditions, his hours were severely reduced. As a result, he was netting about \$500 a month during these months. See Exhibit 3.
7. At the time, Appellant's employer offered him insurance, which would have cost about \$168 a month. See Exhibit 3. He considered that unaffordable given the low income he was bringing in at the time. Therefore, he chose not to take it.
8. At some point during 2019, Appellant obtained new employment. In that position, he was able to get 40 hours a week of work.
9. At that point, Appellant obtained insurance and he was covered from June 2019 onwards. He was insured at the time of the hearing.
10. During the time that he was uninsured, Appellant had living expenses, including \$1125 a month for rent, and \$352 a month for car loan. He also had a long commute and so gas expenses were high. He testified that money was tight every month and he had trouble meeting his necessary expenses.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant was not able to obtain affordable insurance through his employment during the period that he was uninsured in 2019. During that period of time, his hours were low and he was grossing between \$700 and 800 a month. Annualized, that amounts to between \$8400 and \$9600 a year. Under

affordability standards promulgated by the Health Connector's board of directors, pursuant to state law, G.L. c. 111M, a person with income at that level is not deemed able to afford anything for health insurance. (I obtain that figure from Table 3 of the instructions for the 2019 Schedule HC.) Similarly, Appellant would not have been able to afford unsubsidized insurance during that period.

The affordability calculation would be different if I were to use Appellant's annual salary of \$50,965, because an individual with that salary is deemed able to afford 8% of income for health insurance. See Table 3, 2019 Schedule HC instructions. In this case, that would amount to \$4,077 a year or \$340 a month; at that amount, both the insurance offered by Appellant's employer in early 2019 and insurance offered without subsidy on the open market would have been affordable. See Table 4, Premiums, in the Schedule HC instructions. However, I have determined not to use an annual salary because Appellant's income varied over the course of the year significantly. He testified credibly and offered corroborating documentation that in the early part of 2019 when he was uninsured, his income was quite low. Thus, most of the annual income was earned in the latter part of the year when he was insured. Accordingly it would be inequitable to use the annual figure to determine his ability to afford insurance during the period that he was uninsured.

However, given his low income in the early part of the year, Appellant could have obtained insurance through Connector Care, which is government subsidized insurance. Persons with annual incomes below \$36,420, which is 300 percent of the federal poverty limit., are eligible for Connector Care provided they meet other eligibility factors such as citizenship, residence in Massachusetts, and lack of access to affordability employer-subsidized health insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Appellant was not insured through Connector Care during the early part of the year. However, this is understandable because Appellant's annual income was uncertain at that time. He believed that the low income in the early part of the year was temporary and due to a downturn in business need at his employer. In fact, his income did increase over the course of the year, so that his annual income was ultimately above the 300 percent figure.

Even if Appellant were deemed able to obtain affordable insurance through Connector Care, he would be entitled to a waiver of that individual mandate penalty if he has stated sufficient grounds to constitute a hardship under governing regulations. See 956 CMR 6.08(1). Appellant has stated that, given his financial circumstances, purchasing health insurance would have caused him to experience a serious deprivation of necessities of life. If this was the case, it constitutes grounds for a waiver of the penalty. See 956 CMR 6.08(1)(e). Appellant demonstrated with documentation that his income varied dramatically in 2019. It was quite low in the early part of the year, and then went up significantly over the course of the year. As a result, it was difficult for him to obtain insurance in the first months of the year when he couldn't afford to pay anything for insurance and yet he expected his annual income to increase. Given these circumstances, I will exercise my discretion to waive the penalty in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-458

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 18, 2020

Decision Date: August 24, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 18, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachments including written statement and a copy of 2019 1099-HC) (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 64 years old at the end of 2019.
2. He lived in Hampden County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.

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

4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$138,664. He testified that this income largely consisted of a withdrawal from an individual retirement account that he made during the course of the year.
5. Appellant stated in his Schedule HC that he did not have health insurance meeting minimum creditable coverage (MCC) standards from January through June 2019 but that he have MCC-compliant insurance from July through December. Exhibit 2.
6. However, at the hearing, Appellant stated that he did in fact have MCC compliant insurance during January through March of 2019. He offered as proof a copy of his 1099-HC, which is a form sent by an insurer to insureds for purposes of completing the Schedule HC on the Massachusetts tax return. See Exhibit 3. This form corroborated Appellant's testimony. Appellant stated that he had inadvertently failed to state on his Schedule HC that he was insured during the first three months of 2019.
7. At the start of 2019, Appellant worked at a job through which he obtained health insurance. However, the company for which he worked went out of business and he lost his employment as a result. He did not work for the balance of the year.
8. As part of the severance from his employment, Appellant remained in his employer's health insurance plan for three months. After that he was uninsured until July, when he obtained insurance through the Health Connector. He paid approximately \$600 a month for that insurance, and he remained insured under that plan throughout the remainder of 2019 and into 2020 until he turned 65, when he became insured under Medicare.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

However, Appellant has testified credibly that he was in fact insured for nine months in 2019, including the months of January through March. Moreover, he produced corroboration for this testimony in the Schedule HC that had been sent to him by his insurer. He stated that the contrary information in the Schedule HC that he filed was due to his error.

As a result, I conclude that Appellant was in fact insured for nine months, and had only three months without insurance in 2019. Because he is entitled to a three-month gap without penalty, he should not have been assessed a penalty at all in 2019. Accordingly, I will waive the penalty in its entirety.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-471

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 24, 2020

Decision Date: August 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (6 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old at the end of 2019.
2. He lived in Suffolk County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$29,563.
5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2019.

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

6. Appellant worked in a restaurant during 2019. He stated that at the beginning of 2019, he was offered health insurance through his employment and completed the paperwork necessary to apply for it. He believed that he was covered thereafter.
7. When he went to pay his 2019 taxes in early 2020, he learned that he had not been covered. He was not certain what the cause of the problem was. He stated that during 2019, he did not seek out any health care so did not realize that he wasn't covered. Further, because he was paid through direct deposit, he did not examine payment records and so did not notice that he was not getting a deduction for health insurance.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was offered affordable insurance through his employment in 2019, as demonstrated by the fact that he applied for that insurance. However, he was not covered because of a problem in completing the enrollment process. He testified credibly that he was unaware of the fact that he was uninsured during the year because he did not seek medical services and because he was not in the habit of examining his pay stub to check his deductions.

Other than the insurance offered through his employment, Appellant did not have another option. He was not eligible for Connector Care, which is government subsidized insurance. His annual income in 2019 was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care. See 956 CMR 12.04 (Connector Care eligibility requirements.) However, to be eligible for Connector Care, in addition to meeting the income requirements, an individual must also meet the federal eligibility requirements for advance premium tax credits under the Affordable Care Act. Id. Those requirements include a requirement that an individual not be eligible for another form of coverage, including affordable employer-sponsored insurance. See 45 C.F.R. § 155.305(f)(1)(ii)(b). Because Appellant had access to affordable employer-sponsored insurance in 2019, he did not meet that requirement and so was not eligible for Connector Care.

Moreover, he would not have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector's board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). A person like Appellant who is in a household of one and has an income of \$29,563 is deemed able to afford 4.2% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$1,242 a year or \$103 a month. In 2019, an individual like Appellant who lived in Suffolk County and was 31 years old would have had to pay at least \$279 a month for health insurance. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance in 2019 through his employment but didn't, I must determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). Appellant did attempt to obtain health insurance. His failure to be enrolled appeared to be the result of inadvertence or miscommunication with his employer. I credit his testimony that he was not at fault for this failure and that he did not realize that he was uninsured until it was too late. Under these circumstances, I will exercise my discretion to waive the penalty in its entirety. However, Appellant is cautioned that he is still required to obtain health insurance. He testified at the hearing that he was currently uninsured and not working. If that is the case, then he may be eligible for Connector Care insurance, which he can obtain by applying on line at www.mahealthconnector.org.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-475

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 24, 2020

Decision Date: August 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

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

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old at the end of 2019.
2. He lived in Hampshire County during 2019.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return, and confirmed at the hearing, that he had adjusted gross income in 2019 of \$31,830.
5. Appellant stated in his Schedule HC and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage standards at any point in 2019.

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

6. Appellant moved to Massachusetts from another state in late 2018. He had not had health insurance before moving to Massachusetts.
7. While in Massachusetts, he worked in construction. He was paid by the hour and his hours of employment were erratic. He was not offered insurance through this employment.
8. Prior to 2019, Appellant had accumulated a significant tax arrearage resulting from the fact that he had been paid as a 1099 employee for a year and did not have taxes withheld. He was working on paying off that arrearage through 2019. See Exhibit 3.
9. Additionally, Appellant had significant unpaid medical bills both from his time in Massachusetts and his time in another state. He was also paying off that debt throughout 2019.
10. Appellant stated that he was unaware that he could have obtained Connector Care or that as a Massachusetts resident he was required to obtain health insurance.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was not offered affordable insurance through his employment in 2019.

However, Appellant would have been eligible for Connector Care, which is government subsidized insurance. His annual income in 2019 was below \$36,420, which is 300 percent of the federal poverty limit. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, provided they meet other eligibility requirements. See 956 CMR 12.04 (Connector Care eligibility requirements.) I conclude that Appellant met those requirements because he was residing in Massachusetts and did not have access to other insurance meeting minimum standards. However, Appellant wasn’t aware that Connector Care was an option

Other than Connector Care, he would not have been able to afford unsubsidized health insurance on his income, using state affordability standards that are set by the Health Connector’s board in accordance with Massachusetts statute. G.L. c. 111M, § 2(a). A person like Appellant who is in a household of one and has an income of \$31,830 is deemed able to afford 5% of income for health insurance under those affordability standards. (I obtained that percentage figure from Table 3 in the 2019 instructions for the Schedule HC.) In this case, that amounts to \$1,591 a year or \$132 a month. In 2019, an individual like

Appellant who lived in Hampshire County and was 31 years old would have had to pay at least \$250 a month for health insurance. (I obtain that premium figure from Table 4, Premiums, printed in the instructions to Schedule HC.) Thus, using state-established standards, Appellant was deemed unable to afford unsubsidized insurance in 2019.

Because Appellant could have obtained affordable health insurance in 2019 through Connector Care but didn't, I must determine whether he has stated a hardship sufficient to constitute grounds for a waiver of the penalty. See 956 CMR 6.08(1). Appellant testified credibly that he had significant financial hardships resulting from a large tax arrearage and medical bills. He was making an effort to pay off those obligations. His ability to make payments was hampered by the fact that his work was irregular. Under these circumstances, I will exercise my discretion to waive the penalty in its entirety.

However, Appellant is cautioned that he is still required to obtain health insurance. He testified at the hearing that he was still uninsured. If that is the case, then he may be eligible for Connector Care insurance, which he can obtain by applying on line at www.mahealthconnector.org or by calling 1-877-623-6765 for assistance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-476

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 24, 2020

Decision Date: August 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, who are Husband and Wife, appeared at the hearing, which was held by telephone, on August 24, 2020. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

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

Exhibit 3: Statement of Grounds (with attachment) (18 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. Husband and Wife were each 30 years old at the end of 2019.
2. During the first part of 2019, they lived in Suffolk County.
3. Husband worked at a job in Massachusetts during the first half of 2019. In June, he obtained employment that caused him to move to India, where he remained until December 2019. See Exhibit 3 (passport records).

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

4. Wife was a student in Massachusetts in the first part of 2019. She remained in Massachusetts through August of 2019, at which point she received her degree and moved to India to be with Husband. See Exhibit 3.
5. Both Husband and Wife returned to Massachusetts in December 2019 and began residence in Middlesex County. At that point, Wife began to work in Massachusetts.
6. Appellants filed their 2019 Massachusetts taxes as married filing jointly with no dependents.
7. Appellants reported on their Massachusetts tax return, and Husband confirmed at the hearing, that they had adjusted gross income in 2019 of \$82,874.
8. Appellants stated in the Schedule HC and Husband confirmed at the hearing that Husband had health insurance meeting minimum creditable (MCC) standards from January through May of 2019 and did not have insurance for the remaining seven months of the year. See Exhibit 2. The insurance that he had in the first five months of the year was obtained through his employment.
9. Further, as stated in the Schedule HC and Husband's testimony, Wife had insurance meeting MCC standards from January through July and then again for the month of December. She did not have health insurance meeting MCC standards for the five months from August through November. The insurance that she had for the first seven months of the year was a student insurance plan that she obtained at the university where she was studying. The insurance she obtained in December was through the employment she began that month.
10. Husband testified that both he and Wife were insured in 2020 through Wife's employment.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellants' case, Husband was without insurance for only seven months in 2019. Because he is entitled to a three-month gap without penalty, he has only been assessed a penalty for four months. Wife was without health insurance for four months and so, because of the three-month gap without penalty, she was assessed a penalty of only one month.

To determine whether Appellants should face a penalty for not having insurance, I must first determine whether the individual mandate applied to them. As stated above, the individual mandate applies to individuals who are "residents" of Massachusetts. See G.L. c. 111M, § 2. However, in this case,

Appellants did not reside in Massachusetts for a significant part of 2019. During that time, they lived in India. They did not maintain a residence in Massachusetts during that period of time because they had given up their residence in Suffolk County and had their belongings in storage. They could not have accessed health services in the United States that would have been covered by an insurance policy purchased in this country. Therefore, I conclude that they were excused from the obligation to obtain health insurance during this period of non-residence.

Because I have reached this conclusion, I do not have to determine whether they had affordable insurance available to them during the period when they were uninsured or whether they have stated a financial hardship sufficient to constitute grounds for waiving the penalty under 956 CMR 6.08(1). Instead, I will the penalty assessed against them in its entirety.

PENALTY ASSESSED

Number of Months Appealed : Husband 4 Number of Months Assessed: 0
Wife 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 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-477

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: August 11, 2020
Decision Date: August 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 11, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 4/8/20. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence submitted with the Appeal. (1P).
- Exhibit 2 (b) Appellant's Supporting Documents: National Grid 2019 (8 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 7/14/20 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was the head of household, single mother of 2 children ages 17 and 13, was age 49 in 2019, and lived in Middlesex County. (Exhibit 1, Testimony of Appellant).
2. The Appellant worked at a hair salon at the beginning of the year who did not offer health insurance. (Testimony of Appellant).
3. The Appellant obtained new part time employment in August 2019 which became full time in December.
4. The Appellant's Employer did not offer health insurance.

5. The Appellant had lost health insurance in 2018 because the income she was paid from her late Spouse's social security had exceeded the MassHealth income limit. (Testimony of Appellant, Exhibit 2(a)).
6. The Appellant investigated obtaining health insurance through the Connector but could not afford the \$291 premium. (Testimony of Appellant).
7. The Appellant testified she was able to obtain government-sponsored health insurance in January 2020. (Testimony of Appellant).
8. The Appellant's Federal Adjusted Gross Income for 2019 was \$37,912(Exhibit 1).
9. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
10. The Appellant testified that she has been in substantial arrears (over \$4,000) in her electricity bills and received multiple termination notices. (Testimony of Appellant, Exhibit 2(b)).
11. The Appellant testified she was only able to not have the electricity shut off from paying down after receiving a refund check. (Testimony of Appellant).
12. The Appellant had the following monthly expenses for basic necessities in 2019: Mortgage/Taxes /Insurance: \$2,030/month, Utilities \$650, Cell Phones \$288, Car Insurance \$142, Carp Payment \$306 Gas \$320, Food \$640, Cable/Internet \$292, totaling: \$4,668.
13. The Appellant testified her children were covered under MassHealth. (Testimony of Appellant).
14. According to Table 3 Appellant could have afforded \$107.42 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$350.00 per month. (Testimony of Appellant).
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit grounds with her appeal that that the expense of purchasing health insurance was not affordable to her because she experienced a hardship where the appellant received a shut office notice, or was shut off, or was refused the delivery of essential utilities (gas, electric, oil, water, or

telephone). The Appellant also testified during the hearing that the expense of purchasing health insurance would have also caused a serious deprivation of food, shelter, clothing, or other necessities. (See Exhibits 2).

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

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

The evidence provided by the appellant established that her income for 2019, \$37,912.00, was less than 300% of the federal poverty level, which for 2019 was \$62,340.00 for a head of household with 2 dependents and a family size of 3. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$37,912 in 2019 and could have afforded \$107.42 per month. According to Table 4, Appellant, age 49 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$350.00 per month for an individual plan. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance. The Appellant credibly testified that health insurance was not offered through her employers and thus she did not have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

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

The Appellant had the following monthly expenses for basic necessities in 2019: Mortgage/Taxes /Insurance: \$2,030/month, Utilities \$650, Cell Phones \$288, Car Insurance \$142, Carp Payment \$306 Gas \$320, Food \$640, Cable/Internet \$292, totaling: \$4,668.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The cost of purchasing health insurance was not affordable to her because she experienced a hardship where the appellant received a shut office notice. The Appellant adduced testimony and documentation regarding the termination notices regarding the arrears in excess of \$4,000 to her electric utility account. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), the Appellant's income was subsumed in her basic necessary monthly expenses, and would not have allowed the Appellant to afford the cost of a premium in the amount of \$107.42. It is concluded that the Appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181112

Appeal Decision: The penalty is waived.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: August 5, 2020

Decision Date: August 27, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing, which was held by telephone on August 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellant on November 13, 2019 with letter

in support attached

Exhibit 2: Appeal Information sheet Schedule HC, 2018

Exhibit 3: Connector notice of hearing sent to Appellant, dated February 7, 2020 for March 26, 2020 hearing

Exhibit 3a: Connector notice of hearing sent to Appellant, dated July 8, 2020 for August 5, 2020 hearing

Exhibit 4: Connector Final Appeal Decision, 2015 Tax Year, dated December 8, 2017

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 48 years old in 2018. Appellant has two children who were 15 and 17 years old in 2018 (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Middlesex County in 2018 (Exhibit 2, Testimony of Appellant).
3. Appellant's Federal Adjusted Gross Income for 2018 was \$65,652 (Exhibit 2, Testimony of Appellant).
4. Appellant worked in construction all of 2018. He had the same job all year. He was paid by the hour and had consistent weekly income all year (Testimony of Appellant).
5. Appellant was not offered health insurance by his employer. Appellant tried to obtain health insurance in 2018, but he felt he could not afford the premium (Testimony of Appellant).

6. Appellant has been assessed a tax penalty for all of 2018. The appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

8. According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed with an adjusted gross income of \$65,652 could afford to pay \$440 per month for health insurance. According to Table 4, Appellant, age 48 and living in Middlesex County, could have purchased insurance for \$354 per month. Individual coverage was affordable for the appellant in 2018 (Schedule HC for 2018, Exhibit 2).

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

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

11. Appellant fell more than thirty days behind in rent payments in 2018 three or four times (Testimony of Appellant).

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

13. Appellant had the following monthly expenses for basic necessities in 2018: rent-\$400; heat-\$0.00; electricity-\$0.00; telephone -\$88; food-\$450; clothing for Appellant and his children-\$190; car insurance-\$120; car payment-\$288; gas-\$220. Appellant also paid \$1,238 a month in child support, \$310 in back taxes, and \$200 in debt payment (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

G.L. c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” 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.

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

To determine if Appellant’s penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment,

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

According to Table 3 of Schedule HC for 2018, the appellant with no dependents claimed with an adjusted gross income of \$65,652 could afford to pay \$440 per month for health insurance. According to Table 4, Appellant, age 48 and living in Middlesex County, could have purchased insurance for \$354 per month. on the individual market. Individual coverage was affordable for the appellant in 2018. See Schedule HC for 2018, Exhibit 2.

Appellant worked in construction all of 2018. He had the same job all year. He was paid by the hour and had consistent weekly income all year. Appellant was not offered health insurance by his employer. Appellant tried to obtain health insurance in 2018, but he felt he could not afford the premium See the testimony of the appellant which I find to be credible. Appellant also had no access to health insurance through the ConnectorCare program. He earned too much to be eligible. See Exhibit 2 and Schedule HC-2018, Table 2.

Since Appellant had access to affordable insurance through the individual market, we need to determine if he experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08 et. seq.

Appellant had the following monthly expenses for basic necessities: rent-\$400; heat- \$0.00; electricity- \$0.00; telephone -\$88; food-\$450; clothing for Appellant and his children-\$190; car insurance-\$120; car payment-\$ 288; gas-\$220. Appellant also paid \$1,238 a month in child support, \$310 in back taxes, and \$200 in debt payment. See the testimony of the appellant which I find to be credible.

Appellant's expenses came to about \$3,500 a month. Before taxes, Appellant earned about \$5,400 a month. There is no evidence in the record about the amount Appellant paid in taxes. Considering his gross pay, Appellant would have been able to afford \$354 a month for health insurance (the amount Appellant could have purchased health insurance for; see Table 4 of Schedule HC 2018). However, I find that health insurance was unaffordable for the appellant because he fell more than 30 days behind in rent payments at least three times during the year. See 956 CMR 6.08(1)(a) and 6.08(3) which allows the consideration of other financial issues raised by the appellant. In addition to basic necessities, Appellant paid a considerable portion of his pay for child support, back taxes, and debt repayment. Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181115

Appeal Decision : Penalty waived in full

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: August 5, 2020

Decision Date: August 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on August 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. The appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated by Appellants on November 1 and November 12, 2019 with letter in support and documents relating to the purchase of a boat attached

Exhibit 2: Appeal Case Information from Schedule HC 2018

Exhibit 3: Notice of Hearing sent to Appellant dated February 7, 2020 for hearing on March 26, 2020

Exhibit 3a: Notice of Hearing sent to Appellant dated July 8, 2020 for hearing on August 5, 2020

FINDINGS OF FACT:

The record shows, and I so find

1. Appellants were 40 and 33 years old in 2018. They filed their Massachusetts tax return jointly as a married couple. They did not reside in Massachusetts after January, 2018; to file their tax return they used one of their parents' address in Suffolk County (Exhibit 1 attachment, Exhibit 2, Testimony of Appellant).
2. The appellants had a Federal Adjusted Gross income in 2018 of \$239,270. Most of the income came from a one-time bonus for work done by one of the appellants in 2017. One appellant worked in January, 2018 He did not work the rest of the year. The other appellant did not work at all in 2018 (Testimony of Appellant, Exhibit 2).
3. Appellants purchased a boat while in Europe in late 2017. At the end of January, they left Massachusetts to go sailing in the Mediterranean and across the Atlantic Ocean to the Caribbean. They returned to the United States in the spring of 2019 (Testimony of Appellant, Exhibit 1 attachments).
4. Appellants had travel insurance which covered medical care while they were on their trip. They both had insurance in Massachusetts which met the Commonwealth's minimum creditable coverage standards in

January, 2018 only. They did not have coverage in Massachusetts the rest of the year (Testimony of Appellant, Exhibit 2).

5. Appellants have each been assessed a penalty for eight months, May through December. Appellants have appealed this assessment (Exhibits 1 and 2).

ANALYSIS AND CONCLUSIONS OF LAW

The appellants have each been assessed a tax penalty for eight months, May through December, 2018. They had health insurance which met the Commonwealth's standards in January, 2018. They have been granted a three-month grace period for February through April. They have appealed the penalty. See Exhibits 1 and 2. The issue on appeal is whether the tax penalty assessed 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 which 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 are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellants resided out of the Commonwealth starting at the end of January, 2018. Appellants purchased a boat in Spain at the end of 2017 and spent the last eleven months of 2018 sailing from Europe to the Caribbean. They returned to the United States in the spring of 2019. See the testimony of the appellant which I find to be credible and Exhibit 1 attachments.

Under Massachusetts law, only residents of the Commonwealth are required to have health insurance which meets the state's minimum creditable coverage standards. See Massachusetts General Laws, Chapter 111M, Section 2. Based upon the testimony of the appellant and Exhibit 1, I determine that the appellants did not reside in Massachusetts from February through December, 2018 and were, therefore, not subject to the requirements of Chapter 111M during this period. The penalty is waived in full. I also note that the appellants had travel insurance covering medical care while they were out of the country.

Appellants should note that this waiver of the penalty is based upon the facts that I have determined to be true for this 2018 appeal. Appellants should not assume that a similar determination will be made in the future should Appellants again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 16 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA181120

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: August 5, 2020

Decision Date: August 26, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant. He was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2018 signed and dated November 20, 2019 with letter in support attached

Exhibit 2: Appeal Case Information from Schedule HC 2018

Exhibit 3: Notice of Hearing sent to Appellant dated February 7, 2020 for March 25, 2020 hearing

Exhibit 3a: Notice of Hearing sent to Appellant dated July 8, 2020 for August 5, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return as a single person with no dependents claimed, was 25 years old in 2018. Appellant had two minor children, ages three and five, who lived with their mother (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Suffolk County in 2018. For the first five or six months, Appellant lived with his children and their mother. Around June, Appellant moved out (Exhibit 2, Testimony of Appellant).
3. Appellant had a Federal adjusted gross income for 2018 of \$45,070 (Exhibits 2, and Testimony of Appellant).
4. Appellant had the same job all of 2018. Appellant was paid by the hour. He was offered health insurance through the job. He did not enroll because the coverage would have cost him \$600 a month (Testimony of Appellant).
5. Appellant had no health insurance in 2018. He tried to obtain coverage through the Connector, but was told that he could not apply because his name was attached to his ex-girlfriend's account and that only his ex-girlfriend could remove his name from the account. She refused to do this until later in the year. Appellant finally obtained coverage with an effective start date of January 1, 2019 (Testimony of Appellant).

6. The appellant has been assessed a tax penalty for all of 2018. Appellant has appealed the assessment (Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
8. According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$45,070 could afford to pay \$285 per month for health insurance. According to Table 4, Appellant, 25 years old and living in Suffolk County, could have purchased insurance for \$249 per month for a plan for an individual. Insurance on the individual market was affordable to the appellant (Schedule HC for 2018, Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2018, Appellant earning more than \$36,180 per year, would not have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2018, Exhibit 2, 956 CMR 12.00et seq.).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2018 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2018 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices in 2018 (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities in 2018: rent-\$650 (January through May/June) and \$420 (June through December); heat-\$0.00 all year; electricity-\$50 (January through May) and \$0.00 the rest of the year; telephone-\$90; food, household supplies, laundry-\$830 (January through May) and \$420 the rest of the year; clothing for Appellant and his children-\$215; car insurance-\$300; gas-\$300; child support-\$830 (January through May) and \$1,100 the rest of the year (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant was assessed for a penalty for all of 2018. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained coverage through the Connector with an effective start date of January 1, 2019. Since he is entitled to a three-month grace period prior to obtaining such coverage, Appellant's penalty for October through December, 2018 is waived.

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

According to Table 3 of Schedule HC for 2018, the appellant who filed his Massachusetts taxes as an individual with no dependents claimed with a Federal adjusted gross income of \$45,070 could afford to pay \$285 per month for health insurance. According to Table 4, Appellant, 25 years old and living in Suffolk County, could have purchased insurance for \$249 per month for a plan for an individual. Insurance on the individual market would have been affordable to the appellant. See Schedule HC for 2018, Tables 3 and 4, Exhibit 2.

Appellant was employed all year at the same job. He was offered health insurance by his employer. Appellant did not enroll in the coverage because he felt he could not afford the premium, \$600 a month. In fact, the coverage was unaffordable for Appellant. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2018 is more than 9.56% of the employee's modified adjusted gross income, then the coverage is deemed unaffordable. See 45 CFR Section 155.305(f). 9.56% of the appellant's modified adjusted gross income of \$45,070 equals \$359 per month. Coverage through his job cost \$600. The coverage was deemed unaffordable pursuant to the Affordable Care Act. The coverage was also unaffordable if we simply look at Schedule HC 2018, Table 3. According to Table 3, Appellant was deemed able to afford \$285 per month. See the testimony of the appellant which I find to be credible and Exhibit 2.

Appellant was not income-eligible for ConnectorCare coverage. He earned more than \$36,180, the income limit for an individual. See Table 2 of Schedule HC for 2018 and 956 CMR 12.00 et.seq. There is no evidence in the record that Appellant was eligible for any other government-sponsored coverage.

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

Appellant had the following monthly expenses for basic necessities in 2018: rent-\$650 (January through May/June) and \$420 (June through December); heat-\$0.00 all year; electricity-\$50 (January through May) and \$0.00 the rest of the year; telephone-\$90; food, household supplies, laundry-\$830 (January through May) and \$420 the rest of the year; clothing for Appellant and his children-\$215; car insurance-\$300; gas-\$300; child support-\$830 (January through May) and \$1,100 the rest of the year. See the testimony of Appellant which I find to be credible. From January through May these expenses amounted to \$3,400. From June through December, Appellant's expenses decreased slightly because he moved. Appellant's adjusted gross income came to about \$3,700. If we consider the cost of health insurance (\$249) and that the appellant had to pay taxes, had Appellant purchased health insurance he would have run a deficit every month. Not only would he have no disposable income, but he would not have been able to pay for basic necessities.

Based upon these facts summarized above, I determine that the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08 (1)(e), and 6.08(3), I find that the appellant had a serious financial hardship such that the cost of purchasing health insurance was not affordable for the appellant. Appellant's penalty is fully waived because of financial hardship.

I also note that Appellant tried to obtain health insurance through the Connector during 2018 and purchased coverage as soon as his application was approved. See the testimony of the appellant which I find to be credible.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CC. Connector Appeals Unit

Hearing Officer