

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 20-294

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

Hearing Issue: Whether the 2020 Tax Year Penalty Should Be Waived in Whole or in Part

Hearing Date: July 16, 2021

Decision Date: August 13, 2021

AUTHORITY

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c.30A, M.G.L. c.111M and M.G.L. 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 M.G.L. 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 July 16, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated March 19, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated June 18, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated June 22, 2021.

FINDINGS OF FACT

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

1. In 2020, Appellant turned 56 years old and resided in Plymouth County. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income ("AGI") of \$53,367. (Exhibit 2).
3. Appellant submitted a Statement of Grounds for Appeal, dated March 19, 2021, claiming that the expense of purchasing health insurance would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 1).

4. In 2020, Appellant worked full-time from January through March, when he was furloughed. (Appellant Testimony).
5. Appellant was enrolled in his employer's insurance plan from January through March of 2020. (Appellant Testimony).
6. Appellant received unemployment benefits in 2020 as a result of his furlough. (Appellant Testimony).
7. Appellant returned to work full time in September of 2020 with a new employer, who did not offer health insurance. (Appellant Testimony).
8. At the time of the hearing, Appellant had no health insurance coverage. (Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2020, he is entitled to a three-month grace period, and is appealing a six-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds dated March 18, 2021, claiming that the expense of purchasing health insurance would have caused Appellant to suffer a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 1).

The issue to be determined is whether the six-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. 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 available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and

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

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$53,367 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. Appellant's 2020 AGI of \$53,367 is more than 300% of the FPL, making Appellant ineligible for subsidized health insurance through the Health Connector.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 56 and living in Plymouth County, \$432 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents with an AGI of \$53,367, could afford to pay \$356 monthly for a single plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables showing that Appellant could afford \$356 per month, while private insurance would cost \$432 per month, I conclude that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

During the time Appellant worked for an employer offering health insurance in 2020, he was enrolled in this employer's plan. (Exhibit 2; Appellant Testimony). In September of 2020 Appellant secured work for a different employer, who did not offer employer sponsored health insurance, and Appellant was without health insurance at the time of the hearing. (Appellant Testimony).

Given that Appellant did not have access to employer sponsored health insurance after his March 2020 furlough, private health insurance was not affordable for Appellant, and he was not eligible for subsidized health insurance through the Connector, I conclude that Appellant did not have access to affordable health insurance coverage in 2020 during the months he was not covered. Individuals without access to affordable health insurance are not subject to the individual mandate penalty, as individuals cannot be made to purchase that which is unavailable to them, namely an affordable health insurance plan. See 956 C.M.R. 6.08.

Accordingly, Appellant's appeal is **GRANTED** and the six-month 2020 Tax Penalty assessed against him is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should NOT be assessed a penalty for Tax Year 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-308

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 21, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 21, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (6 pages)

FINDINGS OF FACT

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

1. Appellant was 40 years old at the end of 2020.
2. During 2020, Appellant lived in Middlesex County.
3. Appellant filed his 2020 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 2020 of \$65,971. See Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. At the start of 2020, Appellant was not working, having recently left a job in sales and begun looking for a new position. While he was looking for work, the Covid-19 pandemic occurred and it became difficult to find new employment. As a result, he did not have full-time employment until June 2020, at which point he began a new position. During the earlier part of the year, he worked only at a temporary, part-time, low-paying position.
7. When he took the full-time position in June, he was told he would not be eligible for benefits until January 2021. He remained without health insurance during that period of time.
8. At some point in 2021, he became eligible for benefits through employment and was enrolled in health insurance at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2021, Appellant was either unemployed or working at a job that did not offer health benefits. Thus, he could not have obtained insurance through his employment.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. His annual income in 2020 of \$65,971 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant’s. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M.

Under those standards, a person like Appellant who had income of \$65,971 for a household of one person was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant’s case, that amounts to \$5,277 or \$439 a month. During 2020, persons like Appellant who lived in Middlesex County and were 40 years of age could have obtained health insurance for a monthly premium of \$316. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have afforded to obtain health insurance, I must determine whether he has met the standards to waive the individual mandate penalty under the Health Connector’s regulations. 956 CMR 6.08. In this case, I determine that he has.

First, it would be inequitable to consider his annual earnings in determining whether he could have afforded insurance during the first half of 2020 when he was unemployed. During that six-month period, his income was considerably lower because he was working only at a part-time, low-paying position. Thus, he could not have afforded market rate health insurance during that time period.

Further, during the latter half of the year, when he did resume working, he did not seek to purchase health insurance because he was expecting to become eligible for insurance through his employment. He had just ended a period with little to no income, during which time he had to live on savings. He had significant expenses during the year, including a high rent. Given these factors, I conclude that the cost of purchasing health insurance would have constituted a significant financial burden to Appellant. This constitutes grounds for waiving the individual mandate penalty. 956 CMR 6.08(1)(e). Further, I take into account the fact that, when Appellant became eligible for health insurance through employment, he enrolled and was covered at the time of the hearing. This indicates that his period without insurance was a temporary condition caused by the financial uncertainty arising from his period of unemployment during a pandemic.

Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellant for 2020 in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-311

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 21, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 21, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (5 pages)

FINDINGS OF FACT

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

1. Appellant was 40 years old at the end of 2020.
2. During 2020, Appellant lived in Middlesex County.
3. Appellant filed his 2020 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 2020 of \$58,016. See Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. Appellant worked at a position that offered insurance costing \$150 a week. He did not consider this affordable.
7. During 2020, Appellant had the obligation to pay \$155 a week in child support.
8. Appellant was uninsured at the time of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellant worked at a position that offered insurance costing \$600 a month. This would not have been affordable for Appellant under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who had income of \$58,016 for a household of one person was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant’s case, that amounts to \$4,641 or \$386 a month. Thus, the employment-based insurance, which cost \$600 a month, would not have been affordable.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. His annual income in 2020 of \$58,016 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant’s. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded unsubsidized insurance purchased on the non-group market using the state affordability standards discussed above. Under those standards, Appellant is deemed

able to afford \$386 a month for insurance. During 2020, a person like Appellant who lived in Middlesex County and was 40 years of age could have obtained health insurance for a monthly premium of \$316. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have afforded to obtain health insurance, I must determine whether he has met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. In this case, I determine that he has. Appellant was required to pay \$155 a week in child support. This is a considerable expense, which significantly lowered the amount of money he would have had available for other expenses. As noted above, the difference between the amount he was deemed able to afford for health insurance, i.e., \$386, and the potential cost of health insurance, \$316, is only \$70 a month. This cushion was more than eliminated by the child support expenditure. Accordingly, I conclude that the purchase of health insurance would have constituted a significant financial burden to Appellant. This constitutes grounds for waiving the individual mandate penalty. 956 CMR 6.08(1)(e).

Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellant for 2020 in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-312

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 21, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 21, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (5 pages)

FINDINGS OF FACT

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

1. Appellant was 30 years old at the end of 2020.
2. During 2020, Appellant lived in Bristol County.
3. Appellant filed his 2020 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 2020 of \$47,999. See Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2020 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2020. Exhibit 2.
6. At the start of 2020, Appellant worked at a job that did not offer health insurance. He lost that job in February and began collecting unemployment compensation.
7. Appellant had difficulty obtaining new employment because of the slowdown caused by the Covid-19 pandemic and subsequent quarantine. Instead, he went to school to learn a new trade.
8. During this time period, he was living with his grandfather. However, his grandfather died during 2020 as a result of Covid. When his grandfather died, Appellant lost use of the grandfather's apartment and consequently was homeless for a period of time
9. During early 2021, Appellant completed his schooling and obtained a full-time job in his new field. He got health insurance through that job and was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage meeting MCC standards, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2020, Appellant either was unemployed or worked at a position that did not offer him health insurance. Thus, he could not have obtained employment-based insurance.

Further, Appellant would not have qualified for government-subsidized insurance during 2020. His annual income in 2020 of \$47,999 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded unsubsidized insurance purchased on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M.

Under those standards, a person like Appellant who had income of \$47,999 for a household of one person was deemed able to afford 7.6 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$3,647 or \$303 a month. During 2020, a person like Appellant who lived in Bristol County and was 30 years of age could have obtained health insurance for a monthly premium of \$269. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have afforded to obtain health insurance, I must determine whether he has met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. In this case, I determine that he has. During 2020, there was a significant period of time when Appellant was homeless. This occurred because he lost the apartment that he had been living in with his grandfather, after his grandfather died. Experiencing a period of homelessness is a ground for waiving the penalty under the governing regulations. See 956 CMR 6.08(1)(a). Further, I take into account the fact that Appellant did get health insurance in 2021 when it became available to him through work. This further indicates that his period of uninsurance in 2020 was the result of unemployment and the other disruptions caused by the Covid-19 pandemic.

Based on the foregoing, I waive the penalty assessed against Appellant for 2020 in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-244

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 24, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on June 24, 2021.

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 May 21, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal with Letter and Tax Documents	5 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in May 2020. The Appellant filed their Federal Income Tax Return as a single individual, 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 Suffolk County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$22,377.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 1 and 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$22,377.00, could afford to pay \$54.07 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24, living in Suffolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Neither of the Appellant's two part-time employers offered health insurance during 2020. Therefore, employer-sponsored insurance was not available to them. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$22,377.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).
10. The Appellant had one part-time job as a substitute librarian and another part-time job as a bar tender during 2020. They also were a part-time student in a graduate school program through which they were not eligible for health insurance. (Appellant's Testimony).
11. The Appellant was furloughed from one job in February 2020 because of the pandemic and was laid off from the second job in March 2020 for the same reason. (Appellant's Testimony).

12. Later that year, the Appellant unexpectedly received unemployment benefits and CARES Act benefits, which they had not planned for or anticipated. Those benefits resulted in Appellant having an AGI higher than they had in prior years, when their income qualified them for MassHealth insurance. (Appellant's Testimony and Exhibit 1). Further, Appellant did not realize that in 2020 they were income-eligible for ConnectorCare insurance given that their AGI in prior years had been low enough to qualify for MassHealth insurance coverage. (Appellant's Testimony).
13. The Appellant's pre-tax monthly expenses of \$1,149.17, during 2020 included: Rent - \$812.50, Electricity - \$40.00, Phone - \$35.00, Cable/internet - \$20.00, Food - \$150.00, security deposit and last month's rent - \$91.67. (Appellant's Testimony).
14. The Appellant has health insurance through MassHealth as of January 2021. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

As the basis for their appeal, the Appellant checked the box "Other," explaining that they were furloughed from two part-time jobs, received unexpected unemployment and CARES Act benefits and did not realize they were income-eligible for Connector Care benefits during 2020. (Appellant's Testimony and Exhibit 3).

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

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 2020.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$22,377.00, could afford to pay \$54.07 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24, living in Suffolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Neither of the Appellant's two part-time employers offered health insurance during 2020. Therefore, employer-sponsored insurance was not available to them. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$22,377.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2).

The Appellant had one part-time job as a substitute librarian and another part-time job as a bar tender during 2020. They also were a part-time student in a graduate school program through which they were not eligible for health insurance. (Appellant's Testimony). The Appellant was furloughed from one job in February 2020 because of the pandemic and was laid off from the second job in March 2020 for the same reason. (Appellant's Testimony).

Later that year, he Appellant unexpectedly received unemployment benefits and CARES Act benefits, which they had not planned for or anticipated. Those benefits resulted in Appellant having an AGI higher than they had in prior years, when their income qualified them for MassHealth insurance. (Appellant's Testimony and Exhibit 3). Further, Appellant did not realize that in 2020 they were income-eligible for ConnectorCare insurance given that their AGI in prior years had been low enough to qualify for MassHealth. (Appellant's Testimony).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the pandemic created an unanticipated hardship for the Appellant, within the meaning of 956 CMR 6.08 (3), which they could not have predicted. Additionally, given Appellant's young age, inexperience and graduate school status, it was understandable that Appellant was not aware about the ConnectorCare program. They currently are insured with MassHealth confirming their sincere commitment to obtaining MCC-compliant insurance. Accordingly, payment for the twelve (12)-month penalty assessment is waived entirely.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the

Superior Court for the county where you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-309

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 21, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants were a married couple who will be referred to individually as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on July 21, 2021. 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 sheet¹ (1 page)
- Exhibit 3: Statement of Grounds with attachment (6 pages)

FINDINGS OF FACT

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

1. Husband was 35 and Wife was 30 years old at the end of 2020.
2. During 2020, Appellants lived in Middlesex County.
3. Appellants filed their 2020 Massachusetts taxes as married, filing jointly, with one dependent. The dependent was a minor child who lived with them.
4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2020 of \$88,292. See Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellants submitted as part of their 2020 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. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes that they each had health insurance meeting minimum creditable (MCC) standards from January through June of 2020, but did not have health insurance for the remaining six months of the year. Exhibit 2.
6. At the start of 2020, Husband was working at a position that provided him with health insurance for his family. Wife was going to school full-time.
7. In May, as a result of the Covid-19 pandemic, Husband lost his employment, and thus lost his health insurance. He was out of work until November when he started a new position. During that period of time, the family lived on the Husband's unemployment compensation benefits.
8. Starting in November, Husband began a part-time position that did not offer him health benefits. Wife also began working part-time in the fall of 2021, but her position also did not offer her affordable health insurance.
9. Starting at the beginning of 2021, Husband began working full-time and became eligible for health insurance. The entire family was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2020-schedule-hc-instructions-1/download> and in particular, Tables 1-6, which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector's "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 can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, 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, they reported on their Schedule HC that they were without insurance for six months in 2020. Because they were entitled to a three-month gap without penalty, they have each been assessed a penalty for only three months.

In order to determine whether Appellants should be penalized for not having coverage meeting MCC standards, I must first consider whether they could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2020 Schedule HC instructions at pages HC 6-8.

During 2021, Appellants were either unemployed or working at a job that did not offer health benefits. Thus, they could not have obtained insurance through employment.

Further, Appellants would not have qualified for government-subsidized insurance during 2020. Their annual income in 2020 of \$88,292 was above \$63,990, which is 300 percent of the federal poverty limit for a household of three persons like Appellants'. (I obtain the figure of \$63,990 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, Appellants could not have afforded unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, persons like Appellants who had income of \$88,292 for a household of three persons were deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellants' case, that amounts to \$7,063 or \$588 a month. During 2020, persons like Appellants who lived in Middlesex County and were in a couple in which the older person was 35 years of age would have had to pay \$751 a month in premium for health insurance coverage for a family. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellants.

Because Appellants could not have afforded to obtain health insurance, I am not required to consider whether they have met the standards to waive the individual mandate penalty under the Health Connector's regulations. 956 CMR 6.08. Instead, I will waive the penalty in its entirety.

PENALTY ASSESSED

Husband:

Number of Months Appealed: 3

Number of Months Assessed: 0

Wife:

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-158

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 12, 2021

Decision Date: July 27, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-8-21) (with letter) (4 pages); and
- Exhibit 4: Final Appeal Decision TY2019 (4-28-20) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 57 during 2020, 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 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$60,959.00 (Exhibit 2).
4. Appellant's mother and family helped with expenses. (Appellant's testimony, Exhibit 3).
5. Appellant did not have health insurance available through the employer. (Appellant Testimony).

6. Appellant's expenses for food, shelter, clothing, and other necessities used a significant amount of the income. The monthly expenses totaled approximately \$3,188.00 or \$38,256.00 per year. (Appellant testimony).
7. Under similar facts, Appellant was granted a waiver of the penalty for TY2019 (Exhibit 4).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$420.00 per month. According to Table 3, Appellant was deemed to afford 406.00.
10. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
11. 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 2020).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 2020. 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 2020, and Appellant did not have insurance available through the employer. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$60,959.00 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 \$406.00 per month; according to Table 4, Appellant, who was 57 years old in 2020, from Worcester County, and filed the 2020 Massachusetts taxes as Single with a family size of 1, would have had to pay \$420.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for such 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20-159

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 12, 2021

Decision Date: July 27, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-7-21) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 25 during 2020, from Hampden County, filed Single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$45,833.00 (Exhibit 2).
4. Due to COVID, Appellant was laid off from employment and found other employment but had to wait for the probationary period to obtain health insurance. (Appellant's testimony, Exhibit 3).
5. Appellant believed that they were not eligible for health insurance through the Health Connector. (Appellant Testimony, Exhibit 3).
6. Appellant obtained a job that did not offer health insurance and was able to obtain health insurance through the Health Connector and still has the health insurance. (Appellant testimony).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$241.00 per month. According to Table 3, Appellant was deemed to afford \$290.00.
9. Private insurance was affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
11. Appellant claimed that they should be granted a waiver based on the grounds that their employer had a probationary period for health insurance and Appellant was not able to obtain alternative health insurance. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 2020. 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 2020, and Appellant did have insurance available through the employer, but was told there was a six-month probationary period. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$45,833.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$290.00 per month; according to Table 4, Appellant, who was 25 years old in 2020, from Hampden County, and filed the 2020 Massachusetts taxes as Single with a family size of 1, would have had to pay \$241.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they were laid off from their employment and obtained other employment but there was a six-month probationary period prior to being eligible for health insurance. Appellant inquired and was led to believe it was not possible to obtain health insurance through the Health Connector. Appellant did obtain health insurance through the Health Connector when Appellant obtained another job that did not provide health insurance. Appellant continues to have health insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20-161

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: May 12, 2021

Decision Date: July 27, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on May 12, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (4-16-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (undated) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 35 during 2020, from Suffolk County, filed Single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$40,889.00 (Exhibit 2).
4. Appellant had health insurance that they believed was in place, and did not discover that the health insurance was lapsed until Appellant sought medical care. (Appellant's testimony, Exhibit 3).
5. Appellant obtained health insurance again as of January 2021. (Appellant Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 per month. According to Table 3, Appellant was deemed to afford \$253.00.
8. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
10. Appellant claimed that they should be granted a waiver based on the grounds that they believed that health insurance was in place and did not learn it was not until they sought medical care. Appellant did obtain health insurance again effective January 2021. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 2020. 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 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$40,889.00 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 \$253.00 per month; according to Table 4, Appellant, who was 35 years old in 2020, from Suffolk County, and filed the 2020 Massachusetts taxes as Single with a family size of 1, would have had to pay \$298.00 for coverage per month 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 believed that they had health insurance and did not discover that they did not until they sought medical care. Appellant then obtained health insurance again effective January 2021. Appellant continues to have health insurance. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20193

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 8, 2021

Decision Date: July 26, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellants on March 10, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated May 10, 2021 for June 8, 2021 hearing
- Exhibit 4: Appellants' canceled checks for rent payments
- Exhibit 5: Appellant's bank statements showing car loan payments
- Exhibit 6: Appellant's student loan statements

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return jointly as a married couple with no dependent claimed, were 31 and 28 years old in 2020. They were married on June 6, 2020 (Exhibits 1, 2, Testimony of Appellant).
2. Appellants who lived in Middlesex County in 2020 had a Federal adjusted gross income of \$105,180. One spouse earned about \$48,000. The other earned the rest (Exhibit 2, Testimony of Appellant).
3. One of the appellants was employed all year at the same job. He was not offered health insurance as a benefit by his employer. He had tried to obtain insurance in 2019, but could not find insurance he thought was affordable. In prior years, this appellant had been on MassHealth. In 2020, he tried to obtain coverage but could not find any he felt was affordable for him. Once the pandemic started, he found it more difficult to search for coverage (Testimony of Appellant).

4. The other appellant, who earned about \$56,000 during the year, was employed all year. She was offered and enrolled in health insurance as a benefit through work. She had coverage all year at a cost of \$60 a month (Testimony of Appellant, Exhibit 2).

5. When the appellants were married on June 6, 2020, the appellant with health insurance added the other appellant to her plan. Obtaining coverage through his spouse had been Appellant's plan. The appellant had coverage from June through December, 2020. He has been assessed a penalty for January and February. Appellants still have coverage (Testimony of Appellant, Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. According to Table 3 of Schedule HC for 2020, the appellants with no dependents claimed with an adjusted gross income of \$105,180 could afford to pay \$701 per month for health insurance for both of them. According to Table 4, Appellants, 31 and 28 years old and living in Middlesex County, could have purchased insurance for \$576 per month for a plan for a couple, or between \$288 and \$304, depending upon age, for an individual plan. Insurance on the individual market would have been affordable to them once they were married. Before their marriage, the spouse who was uninsured would also have been deemed able to afford coverage on the individual market. This appellant could have afforded to spend \$304 a month. Insurance was available for this amount (Schedule HC for 2020 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

8. According to Table 2 of Schedule HC for 2020, the uninsured appellant would have been ineligible for the ConnectorCare program based upon income for January and February (Table 2 of Schedule HC-2020, and Exhibit 2).

9. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2020 (Testimony of Appellant).

11. Appellants did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).

12. Appellants did not have any shut-off notices or terminations of utilities in 2020 (Testimony of Appellant).

13. Appellant who was uninsured had monthly expenses during the first half of the year which amounted to about \$2,600. He paid \$400 a month for rent, including heat and electricity; \$70 for telephone and internet; \$610 for food, household and personal care items; \$876 for a car payment, \$425 for car insurance and gas; and \$100 for clothing. In addition, this appellant paid \$500 for car repairs after an accident, and about \$4,000 for his wedding. (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 2020 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.

If the individual’s income is projected to be between 100% and 300% of the Federal Poverty Level, and if the individual is otherwise eligible, the individual is eligible to enroll in a ConnectorCare plan, the type dependent upon the individual’s projected income level. See 956 CMR 12.00 et. seq. If an individual has a projected income equal to more than 300% of the Federal Poverty level, the individual may be eligible for a Connector Health Insurance plan.

One of the appellants had health insurance all of 2020. The other had coverage from June through December. He is entitled to a three-month grace period prior to obtaining coverage, March through May. He has been assessed a two-month penalty for January and February. The appellants appealed the assessment in March, 2021. See Exhibits 1, 2, the testimony of the appellant which I find to be credible, and Massachusetts General Laws, Chapter 111M, Section 2.

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

The uninsured appellant, though employed all year at the same job, was not offered health insurance through his work. He had no access to employer-sponsored insurance. He also had no access to ConnectorCare coverage because he earned more than the income cap of \$37,470 for an individual. See the testimony of the appellant which I find credible, and Exhibit 2.

According to Table 3 of Schedule HC for 2020, the appellants with no dependents claimed with an adjusted gross income of \$105,180 could afford to pay \$701 per month for health insurance for both of them. According to Table 4, Appellants, 31 and 28 years old and living in Middlesex County, could have purchased insurance for \$576 per month for a plan for a couple, or between \$288 and \$304, depending upon age, for an individual plan. Insurance on the individual market would have been affordable to them once they were married. Before their marriage, the spouse who was uninsured would also have been deemed able to afford coverage on the individual market. This appellant could have afforded \$304 a month. Insurance was available for this amount (Schedule HC for 2020 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

Since affordable insurance was available to the appellant in question through the individual market, we need to determine if Appellant had a financial hardship as defined in 956 CMR 6.08.

Appellant was not married during January and February, 2020, the months for which he has been assessed a penalty. His adjusted gross income was about \$4,000 a month. His expenses for basic necessities came to about \$2,600 a month. In addition, Appellant had other expenses that amounted to about \$4,500 over the year, most of which he had committed to spending for his wedding in June. He tried to find insurance prior to his wedding, but felt what was available was not affordable for him; once the pandemic started, he found it more difficult to look for

coverage. His plan was to obtain coverage as soon as he married in June. This is, in fact, what happened. Appellant has had coverage since. See the testimony of the appellant which I find to be credible.

Pursuant to 956 CMR 6.08(3) which provides that financial circumstances raised by the appellant may be considered, and taking into account income, expenses, the pandemic, and Appellant's plan to obtain coverage as soon as he married, I find that Appellant's penalty for January and February should be waived. I also note that the appellant tried to find coverage prior to his marriage and that as of the date of this hearing, he still had coverage.

The penalty is waived in its entirety. Appellants should note that any waiver granted here is for 2020 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: 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-201

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 16, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-10-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-3-21) (3 pages); and
- Exhibit 4: Final Appeal Decision TY2018 (12-6-19) (5 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 49 during 2020, from Middlesex County, filed Single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$24,126.00 (Exhibit 2).
4. Appellant had applied for MassHealth and was approved (or ConnectorCare), and did not realize that there was also a need to enroll in a plan. Appellant therefore thought they had health insurance. (Appellant's testimony, Exhibit 3).
5. Appellant did subsequently enroll in MassHealth (or ConnectorCare). (Appellant Testimony, Exhibit 3).

6. Appellant's expenses for food, shelter, clothing and other necessities used all of the income. The expenses totaled approximately \$2,767.00 per month, or \$33,204.00 per year. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$361.00 per month. According to Table 3, Appellant was deemed to afford \$58.00.
9. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
11. Appellant claimed that they should be granted a waiver based on the grounds that they believed that health insurance was in place and did not learn it was not until they did the tax return. In addition, Appellant claims that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 2020. 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 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$24,126.00 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 \$58.00 per month; according to Table 4, Appellant, who was 49 years old in 2020, from Middlesex County, and filed the 2020 Massachusetts taxes as Single with a family size of 1, would have had to pay \$361.00 for coverage per month 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 believed that they had health insurance and did not discover that they did not until they filed their taxes. In addition, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant obtained health insurance and currently has it. 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20-203

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 16, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-10-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-10-21) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 20 during 2020, from Essex County, filed Single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant had health insurance for January and February 2020, but did not have health insurance for the remaining months of 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$34,814.00 (Exhibit 2).
4. Appellant had health insurance through their parent's employer but the parent lost the job and Appellant and the parent could not afford the insurance. (Appellant's testimony, Exhibit 3).
5. Appellant did subsequently enroll in or ConnectorCare. (Appellant Testimony, Exhibit 3).

6. Appellant's expenses for food, shelter, clothing and other necessities used almost all of the income. The expenses totaled approximately \$2,625.00 per month, or \$31,500.00 per year. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$269.00 per month. According to Table 3, Appellant was deemed to afford \$145.00.
9. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
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, and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 January and February of 2020, but did not have health insurance for the remaining months of 2020. They have been assessed a tax penalty for seven 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 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$34,814.00 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 \$145.00 per month; according to Table 4, Appellant, who was 20 years old in 2020, from Essex County, and filed the 2020 Massachusetts taxes as Single with a family size of 1, would have had to pay \$269.00 for coverage per month 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 believed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses were such that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant obtained health insurance and currently has it. 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 2020 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: 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20-205

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 16, 2021

Decision Date: July 28, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on June 16, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (5-10-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-10-21) (with letter and documents) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 53 during 2020, from Norfolk County, filed Single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2020 was \$88,205.00 (Exhibit 2).
4. Appellant had health insurance in 2019. In 2020, Appellant was a temporary employee and was concerned that the contract would end, leaving them without enough for expenses. (Appellant's testimony, Exhibit 3).
5. Appellant also received shut-off notices for March, July and September. (Appellant Testimony, Exhibit 3).

6. Appellant's expenses for food, shelter, clothing and other necessities used almost all of the income. The expenses totaled approximately \$6,557.00 per month, or \$78,684.00 per year. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$420.00 per month. According to Table 3, Appellant was deemed to afford \$588.00.
9. Private insurance was affordable for the Appellant in 2020. (Schedule HC for 2020).
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 2020).
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, and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2020, but Appellant did receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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 2020. 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 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$88,205.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$588.00 per month; according to Table 4, Appellant, who was 53 years old in 2020, from Norfolk County, and filed the 2020 Massachusetts taxes as Single with a family size of 1, would have had to pay \$420.00 for coverage per month 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 believed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses were such that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. In addition, Appellant had shut-off notices for utilities for three of the twelve months. 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA20268

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: June 24, 2021

Decision Date: August 2, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 24, 2021. Appellant's mother was also present. The procedures to be followed during the hearing were reviewed with Appellant and the mother who were 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, unsigned and undated with letter from Appellant attached

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated May 24, 2021 for June 24, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as head of household with one dependent claimed, was 26 years old in 2020. Appellant's dependent was her mother. The mother has chronic health problems; Appellant took care of her mother all year (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$73,617 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant worked as a home health aide all of 2020. Appellant was not offered health insurance through employment (Testimony of Appellant, Exhibit 1 attachment).
5. Appellant had MassHealth coverage all of 2019. Appellant's income increased and when Appellant updated her income with MassHealth she lost coverage for 2020 (Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020. I also take administrative notice of relevant sections of the Patient Protection and Affordable Care Act and relevant regulations, and 956CMR12.00 et. seq.

7. According to Table 3 of Schedule HC for 2020, the appellant with one dependent claimed with an adjusted gross income of \$73,613 could afford to pay \$490 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Suffolk County, could have purchased insurance for \$696 per month for a plan for a Head of Household with one dependent.. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

8. According to Table 2 of Schedule HC for 2020, Appellant earning more than \$50,730 per year, the income limit for a household of two, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, Exhibit 2).

9. Appellant has been assessed a penalty for all of 2020. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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.

Appellant was uninsured all of 2020. The appellant has been assessed a penalty for twelve months. Appellant has appealed the assessment. See Exhibits 1 and 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 2020, the appellant with one dependent claimed with an adjusted gross income of \$73,613 could afford to pay \$490 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Suffolk County, could have purchased insurance for \$696 per month for a plan for a Head of Household with one dependent.. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, Exhibit 2, and the testimony of Appellant. which I find credible.

According to Table 2 of Schedule HC for 2020, Appellant earning more than \$50,730 per year, the income limit for a household of two, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2019, and Exhibit 2.

Appellant had no access to affordable health insurance through employment. She worked as a home health aide and was not offered insurance through her work. See the testimony of the appellant which I find to be credible and Exhibit 1 attachment.

Appellant's penalty is waived in full because there was no affordable health insurance available to the appellant. Insurance through employment, through the individual market, and through the Connector Care program were unavailable for the appellant. There is no evidence in the record that any other government-sponsored health insurance was available to the appellant. See Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that any waiver granted here is for 2020 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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20314

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 22, 2021

Decision Date: August 2, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

Exhibit 1: Statement of Grounds for Appeal, 2020, signed on March 16, 2021

Exhibit 1a: Appellants' 1099HC and 1095-C for 2020

Exhibit 1b: Appellant's paystub for December 4, 2020 through December 17, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated June 28, 2021 for July 22, 2021 hearing

Exhibit 4: Appellants' bank statements for 2020

Exhibit 5: Appellants' miscellaneous canceled checks

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return jointly as a married couple with no dependents claimed, were 52 and 61 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellants resided in Worcester County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$53,208 in 2020 (Testimony of Appellant, Exhibit 2).
4. One appellant had health insurance which met the Commonwealth's minimum creditable coverage standards all of 2020 through employment. The coverage cost \$65 every two week, or \$140 a month (Testimony of Appellant, Exhibit 2).
5. The other appellant had no coverage all year. This appellant could have had coverage through his spouse's plan, but it would have cost the couple approximately \$700 a month (Testimony of Appellant).
6. The uninsured appellant worked all year. Appellant tried to get insurance through his job. Sometime in March or April, Appellant's employer said he would offer health insurance, but before that happened, the company shut down for a month because of the pandemic. When Appellant went back to work, he was not offered coverage (Testimony of Appellant)

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020. I also take administrative notice of relevant sections of the Patient Protection and Affordable Care Act and relevant regulations, and 956CMR12.00 et. seq.

8. According to Table 3 of Schedule HC for 2020, the appellants with no dependent claimed with an adjusted gross income of \$53,208 could afford to pay \$330 per month for health insurance. According to Table 4, Appellants, 61 and 52 years old and living in Worcester County, could have purchased insurance for \$864 per month for a plan for a couple. One of the appellants had health insurance and was paying \$140 a month for the coverage. The uninsured appellant could have afforded to pay \$190 a month for an individual plan. An individual plan would have cost \$432. Insurance for an individual on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

9. According to Table 2 of Schedule HC for 2020, Appellants earning more than \$50,730 per year, the income limit for a household of two, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, Exhibit 2).

10. The uninsured appellant has been assessed a penalty for all of 2020. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 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.

One of the appellants was uninsured all of 2020. The appellant has been assessed a penalty for twelve months. Appellant has appealed the assessment. See Exhibits 1 and 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the 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 2020, the appellants with no dependent claimed with an adjusted gross income of \$53,208 could afford to pay \$330 per month for health insurance. According to Table 4, Appellants, 61 and 52 years old and living in Worcester County, could have purchased insurance for \$864 per month for a plan for

a couple. One of the appellants had health insurance and was paying \$140 a month for the coverage. The uninsured appellant could have afforded to pay \$190 a month for an individual plan. An individual plan would have cost \$432. Insurance for an individual on the individual market was unaffordable for the appellant See Schedule HC for 2020 Tables 3 and 4, Exhibit 2, and the testimony of Appellant. which I find credible.

According to Table 2 of Schedule HC for 2020, Appellants earning more than \$50,730 per year, the income limit for a household of two, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2019, and Exhibit 2.

Appellant had no access to affordable health insurance through employment. Appellant tried to get insurance through his job. Sometime in March or April, Appellant's employer said he would offer health insurance, but before that happened, the company shut down for a month because of the pandemic. When Appellant went back to work, he was not offered coverage. In addition, if the uninsured appellant was added to his spouse's plan, the total cost would have been approximately \$700 a month, more than was deemed affordable for the couple. See the testimony of the appellant which I find to be credible, Exhibit 1, and Table 3 of the 2020 Schedule HC.

Appellant's penalty is waived in full because there was no affordable health insurance available to the appellant. Insurance through employment, through the individual market, and through the Connector Care program were unavailable for the appellant. There is no evidence in the record that any other government-sponsored health insurance was available to the appellant. See Massachusetts General Laws, Chapter 111M, Section 2.

Appellant should note that any waiver granted here is for 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20315

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 22, 2021

Decision Date: August 12, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on March 6, 2021 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated June 28, 2021 for July 22, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 49 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$22,692 in 2020 (Testimony of Appellant, Exhibit 2).
4. After getting laid off from a job he had for several years in September, 2019, Appellant entered a job training program in December, 2019. After the program ended in February, 2020, Appellant got a part-time job in April. He worked three days a week and took home approximately \$300 a week; Appellant had this job until July, 2020 (Testimony of Appellant).
5. Before starting at the part-time job in April, Appellant collected about \$300 a week in unemployment compensation benefits (Testimony of the Appellant).

6. Appellant was not offered health insurance through employment because he worked part-time (Testimony of Appellant).
7. In May 2020, Appellant applied for a full job time through the Commonwealth. In July, Appellant was hired. Appellant's biweekly pay was about \$1,000. Appellant obtained health insurance which met the Commonwealth's minimum creditable coverage standards after he had worked 90 days at the job (Testimony of Appellant).
8. Appellant had health insurance for the last three months of the year.. Appellant has been assessed a penalty for January through June. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant to experience a serious deprivation of basic necessities (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 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
10. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$22,692 could afford to pay \$54 per month for health insurance. According to Table 4, Appellant, 49 years old and living in Hampden County, could have purchased insurance for \$361 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$37,470 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, 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 a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2020: rent- \$650; heat, and electricity- \$240 on average (less in summer); telephone-\$70 on average; food, household items, and personal items-\$265; car payments- \$370; insurance-\$120; gas-\$172; clothing-\$35. The appellant also paid \$500 in medical bills which he owed from 2019 when he had a car accident and was injured (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 2020 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.

Appellant obtained coverage that met the Commonwealth’s minimum creditable coverage standards at the beginning of October, 2020. Appellant is entitled to a three-month grace prior to obtaining the insurance, from July through September. The appellant has been assessed for a penalty for January through June, 2020. The appellant appealed the six-month assessment, claiming that the cost of purchasing health insurance would have caused the appellant a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$22,692 could afford to pay \$54 per month for health insurance. According to Table 4, Appellant, 49 years old and living in Hampden County, could have purchased insurance for \$361 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment from January through June, 2020. Appellant was first in a job training program and then obtained a part-time job in April. Appellant was not offered benefits because he was a part-time employee. Once Appellant obtained a full-time job in July, the appellant had to wait 90 days before his health insurance coverage became effective. See the testimony of the appellant which I find to be credible and Exhibit 1 attachment.

Appellant could have had affordable coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$22,692, less than the income limit for one person (\$37,470). He also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020: rent- \$650; heat, and electricity-\$240 on average (less in summer); telephone-\$70 on average; food, household items, and personal items-\$265; car payments- \$370; insurance-\$120; gas-\$172; clothing-\$35. The appellant also paid \$500 in medical bills which he owed from 2019 when he had a car accident and was injured. See the testimony of Appellant which I find to be credible.

Appellant’s monthly expenses for basic necessities amounted to approximately \$1,950 a month. His income came to about \$1,900 if we assume his annual income was consistent each month. In fact, Appellant earned less the first

six months of the year. He was either collecting unemployment, or he was working part-time. His income increased significantly in July when he began to work for the Commonwealth. Based upon these facts, I determine that the appellant experienced a serious financial hardship pursuant to 956 CMR 6.08(1)(e). The cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities; his basic necessities cost more than his income.

Appellant's penalty is waived in its entirety. Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20317

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 22, 2021

Decision Date: August 12, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 22, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until August 27, 2021 to give Appellant time to submit additional evidence. A document was received on August 6, 2021. The document received has been marked as an exhibit and admitted in evidence. The record is now closed.

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

Exhibit 1: Appellant's parents' 1095-C, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2020

Exhibit 3: Notice of Hearing sent to Appellant dated June 28, 2021 for July 22, 2021 hearing

Exhibit 4: Appellant's parents' 2020 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 24 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$47,585 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed as a mental health counselor all of 2020 (Testimony of Appellant).
5. Appellant was enrolled in a health insurance plan which met the Commonwealth's minimum creditable coverage standards under her parents' plan all year. Possibly by error, this information was not recorded on the appellant's Massachusetts tax return for 2020 (Testimony of Appellant, Exhibits 2, 4).
6. Appellant has been assessed a penalty for all of 2020. Appellant has appealed this assessment (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 2020 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 2020. According to her Massachusetts tax return for 2020, Appellant had no health insurance. See Exhibit 2. Though it is not clear from the record why, the information on Appellant’s tax return was erroneous. In fact, Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards all year under her parents’ plan. See Exhibit 4, the appellant’s parents’ 1099-HC form for 2020 which shows that Appellant had the coverage all year.

Pursuant to Massachusetts General Laws, Chapter 111M, Appellant’s penalty is waived in full. Only those without required coverage are subject to a penalty.

Appellant should note that any waiver granted here is for 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-328

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 26, 2021

Decision Date: August 1, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 26, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated June 28, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 15, 2021
- Exhibit 4: Written Statement of Appeal Dated March 15, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-seven years old and is married. She lives in Middlesex County, Massachusetts. Appellant works in the insurance business.
2. Appellant's husband was laid off from his job in 2020 due to Covid 19. Appellant's husband's employer provided the health insurance for Appellant. Appellant's husband finally obtained a job in 2021. Cobra insurance was offered to the Appellant but the cost was \$1,200.00 for both Appellant and her husband.
3. Appellant does have health insurance in 2021.
4. The Appellant's monthly expenses totaled \$5,035.00, consisting of rent \$2,700.00, heat & light \$150.00, internet & cable \$100.00, cell phone \$150.00, car insurance \$90.00, car gas \$50.00, food \$500.00, credit card \$800.00, clothing \$20.00, entertainment \$75.00, toiletries \$50.00, therapist \$350.00, prescriptions \$40.00.
5. The Appellant did not submit a Statement of Grounds for Appeal-2020 but should have under "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear her appeal under all this ground.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. 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 2020.
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 \$101,549.00 was more than \$50,730.00. The monthly premium for health insurance available on the private market in Middlesex County for a 36 year old married person was \$591.00. The tables reflect that Appellant could afford \$676.99 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.

Appellant’s husband was laid off from his job in 2020 due to Covid 19. Appellant’s husband’s employer provided the health insurance for Appellant. Appellant’s husband finally obtained a job in 2021. Cobra insurance was offered to the Appellant but the cost was \$1,200.00 for both Appellant and her husband.

The Appellant did not submit a Statement of Grounds for Appeal-2020 but should have under “During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. I will hear her appeal under all 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 2020, 150 percent of the FPL was \$25,365.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 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 2020. 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 2020 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$101,549.00 in 2020, and Appellant’s filing status was married. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2020 Massachusetts Schedule HC, Appellant could afford to pay \$676.99 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$591.00 monthly for coverage. *Id.* at Table 4.

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

Appellant’s husband was laid off in 2020 and his job provided the health insurance for Appellant. Cobra cost \$1,200.00 per month

Appellant is deemed to afford \$676.99 for health insurance coverage because of her income. Private insurance in the market place was \$591.00 per month, which is less than she could afford. On these facts, I find that Appellant has shown that she was partially precluded from purchasing affordable health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is partially exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **PARTIALLY ALLOWED**, and the 2020 penalty assessed is **PARTIALLY OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 5 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-335

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: July 27, 2021
Decision Date: August 20, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 27, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit further documents regarding insurance coverage. Appellant submitted documents which have been labeled as Exhibit 4.

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 18, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated June 28, 2021
- Exhibit 4: Forms 1099 HC and 1095 B

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 21 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Hampden County, MA in 2020 (Exhibit 1).
3. Appellant had an Adjusted Gross Income of \$23,707 in 2020 (Exhibit 2).
4. Although Exhibit 1 shows, that Appellant had no health insurance in 2020, Appellant was in fact insured with health insurance from February through September (Exhibits 1, 4 and Testimony of Appellant).
5. Appellant was laid off due to the Covid 19 pandemic and was unemployed from October to December 2020 (Exhibit 2 and Testimony of Appellant).
6. Appellant did not receive unemployment compensation (Testimony of Appellant).
7. Appellant had no income from October to December 2020 (Testimony of Appellant).
8. Appellant had difficulty paying for necessary expenses during the time of unemployment due to not having any income (Testimony of Appellant).
9. Appellant had difficulty finding new employment due to the Covid 19 pandemic (Testimony of Appellant).

10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

11. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$23,707 could afford to pay \$57 per month for private insurance. According to Table 4, Appellant, age 21 and living in Hampden County could have purchased private insurance for \$241 per month.

12. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).

13. According to Table 2 of Schedule HC for 2020, Appellant, earning less than \$37,470 was income eligible for government subsidized health insurance.

14. Appellant did not have health insurance for four months in 2020 (Testimony of Appellant and Exhibit 4).

15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).

16. Appellant filed a hardship appeal on March 18, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, 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. Appellant has provided information that Appellant was insured for eight months of 2020. 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 considered eligible for government subsidized health insurance in 2020. Since Appellant potentially had access to affordable insurance, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

Appellant had health insurance coverage from February through September. Appellant was unemployed during October through December 2020. Appellant did not receive unemployment compensation. Appellant struggled to pay for basic expenses during that time period and had difficulty locating employment due to the Covid 19 pandemic. 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 2020 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-336

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: July 27, 2021
Decision Date: August 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on July 27, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. Following Appellant's testimony, the record was left open so that Appellant could submit documents about available employer sponsored health insurance. Appellant submitted documents and they have been entered as Exhibit 4.

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 19, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated June 28, 2021
- Exhibit 4: Employer sponsored insurance information

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 58 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant resided in Norfolk County, MA in 2020 (Exhibit 1).
3. Appellant had an Adjusted Gross Income of \$41,534 in 2020 (Exhibit 1).
4. Employer sponsored health insurance was available to Appellant at a cost of \$401 per month (Exhibit 4 and Testimony of Appellant).
5. Appellant did not sign up for employer sponsored health insurance due to the cost (Testimony of Appellant).
6. Appellant struggled to pay for basic, necessary expenses (Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

8. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$41,534 could afford to pay \$258 per month for private insurance. According to Table 4, Appellant, age 58 and living in Norfolk County could have purchased private insurance for \$432 per month.
9. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
10. Appellant's employer sponsored insurance, at a cost of \$401 per month, was not considered affordable for Appellant (Schedule HC for 2020).
11. According to Table 2 of Schedule HC for 2020, Appellant, earning more than \$37,470 was not income eligible for government subsidized health insurance.
12. Appellant did not have health insurance for twelve months in 2020 (Testimony of Appellant and Exhibit 2).
13. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
14. Appellant filed a hardship appeal on March 19, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, 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 was not income eligible for government subsidized health insurance. Appellant was not considered able to afford private health insurance or the available employer sponsored health insurance. See Schedule HC for 2020 and Testimony of Appellant, which I find to be credible.

I find that affordable health insurance was not available to Appellant in 2020 and that the penalty assessed against Appellant for 2020 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-352

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: July 22, 2021
Decision Date: August 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Tax Information sheet from DOR, Schedule HC
- Exhibit 2: Statement of Grounds for Appeal, dated March 23, 2021 and supporting documents
- Exhibit 3: Notice from Appeals Unit, dated June 29, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 53 years old in 2020. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2020 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$43,680 in 2020 (Exhibit 2).
4. Appellant was unemployed beginning in June 2019 continuing through the entire year of 2020. Appellant was still unemployed at the time of the hearing (Testimony of Appellant).
5. Appellant received unemployment compensation during the entire year of 2020 (Testimony of Appellant).
6. Appellant was very concerned about meeting basic living expenses while unemployed and did not apply for health insurance as that would add another expense (Testimony of Appellant).
7. Appellant had the following monthly expenses for basic necessities in 2020: Rent \$1,100; Utilities \$95; telephone \$78; Food \$440; supplies \$100; car insurance \$75; gasoline \$87; car maintenance \$133; dental and medical expenses \$196. The necessary expenses totaled \$2,304.
8. Appellant had difficulty paying for necessary expenses during 2020 (Testimony of Appellant).
9. Appellant was late paying the rent in 2020 (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

11. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$43,680 could afford to pay \$277 per month for private insurance. According to Table 4, Appellant, age 53 and living in Worcester County could have purchased private insurance for \$420 per month.
12. Private insurance was not considered to be affordable for Appellant in 2020 (Schedule HC for 2020).
13. According to Table 2 of Schedule HC for 2020, Appellant, earning more than \$37,470 was not income eligible for government subsidized health insurance.
14. Appellant did not have health insurance for twelve months in 2020 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 2).
16. Appellant filed a hardship appeal on March 23, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2020, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2020, Appellant was not income eligible for subsidized health insurance. Also, private health insurance was not considered affordable for Appellant.

I find that affordable health insurance was not available to Appellant in 2020 and that the penalty assessed against Appellant for 2020 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

At the hearing Appellant was notified that Appellant may be eligible for a zero premium Health Connector Plan under the American Rescue Plan Act, due to Appellant's unemployment status. Appellant was encouraged to contact the Health Connector at 1 877 623-6765 to explore options for health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-367

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 26, 2021

Decision Date: August 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 26, 2021, 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—2020

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. In 2020, he had health insurance for the month of December. (Testimony, Ex. 2)
2. Prior to 2020, the last time the appellant had health insurance was from January through May, 2019 through his employer. He lost his job in May and went to his local health clinic for assistance in applying for insurance through MassHealth. An application was submitted on his behalf, but contained an error in his address of which he was not aware. After not hearing anything regarding his application, he called MassHealth and was eventually advised that he did not qualify for insurance because of an issue with his residence. (Testimony, Ex. 1)
3. The appellant did not pay a penalty for the portion of 2019 he was without insurance. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. In 2020, with the exception of two one-month contracts, the appellant was unemployed from January through July, and received unemployment compensation. He attempted to investigate his eligibility for MassHealth again and was advised that he did not qualify due to an issue with his residence. (Testimony)
5. The appellant began a new job in August, 2020. The employer offered health insurance, but there was a 90-day waiting period before he could enroll in December. He remained enrolled in 2021, save for a break of two months when he was on a leave of absence. (Testimony)
6. The appellant reported an adjusted gross income of \$60,766.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 for “other” reasons including an inability to obtain government subsidized insurance. He also submitted a letter with his statement in which he stated in part that he attempted to get health insurance through MassHealth, but was notified that he did not qualify due to an issue with his residence.

The appellant did not have insurance from January through November. 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 2020, 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 eleven months, he was assessed and is appealing a penalty of eight months (i.e., the months of uninsurance less the gap period of three months).

The appellant testified credibly that he last had health insurance in 2019 through his employer until he lost his job in May. He testified that he filed an application for insurance with MassHealth with the assistance of his local health clinic, and was unaware that the application contained an error with his address. He testified that he contacted MassHealth after not receiving a response and was eventually advised that he did not qualify due to a residence issue. He testified that he was unemployed from January through July, 2020 when he began a new job. Finally, he testified that his employer offered health insurance, but he could not enroll before December due to a 90-day waiting period.

With regard to the months of January through July when the appellant was unemployed, his claim that he was not eligible for government subsidized insurance due to an issue with his residence is not beyond the realm of possibility, particularly since he testified that the clinic that prepared his application made an error in his address of which he was unaware at the time of submission. However, it is not clear why the appellant did not, or could not, cure the issue by updating his application with the correct information. As for the months of August through November, since the appellant was in a 90-day waiting period for employer health insurance for which he ultimately enrolled in December, those months should not be considered in the calculation of the penalty.

Based on the totality of the evidence, it is concluded that although the appellant could have acted more diligently to resolve the issue with his residence in order to qualify for insurance during the first part of 2020, he established

a reasonable explanation for his failure to do so. In addition, he was enrolled in insurance for part of 2019, and has remained enrolled in 2021, thereby demonstrating that the mandate to obtain insurance was not lost on him. Accordingly, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-380

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 30, 2021

Decision Date: August, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 30, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 2, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated March 24, 2021, with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 33 in 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$42,233 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in March 2021 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$42,233 could afford to pay \$288 per month for health insurance. In accordance with Table 4, the Appellant, age 33, living in Middlesex County, could have purchased private insurance for \$288 per month for a plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant had no access to employer sponsored health insurance in 2020. The Appellant testified that they were employed as a bartender in January and February 2020 but was laid off in March due to Covid -19. The Appellant said that in early 2020 their employer discussed transitioning the Appellant to management and health insurance would have been part of their compensation. This did not happen and the Appellant relied on unemployment compensation for most of 2020. The Appellant said that they were unsure if the extra unemployment compensation would continue and did not apply for health insurance because they were concerned they would be unable to meet their living expenses. I found the Appellant to be credible (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified that they are currently receiving MassHealth.
11. In tax year 2020 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2020 (Exhibits 2, 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 filed their 2020 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

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

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$42,233 could afford to pay \$262 per month for health insurance. In accordance with Table 4, the Appellant, age 33 living in Middlesex County, could have purchased private insurance for \$288 per month for a family plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant did not have access to employer sponsored insurance in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income of \$42,233 was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020.

The Appellant had no affordable health insurance available to them in tax year 2020 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2020.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA20-382

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 30, 2021

Decision Date: August 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 30, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 2, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 22, 2021.
- 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, age 26 in October, 2020 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 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$52,461(Exhibit 2).
4. The Appellant had health insurance for the period of January through May but did not have insurance for the period of June through December in tax year 2020 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2020. The Appellant filed an appeal of the assessment in March 2021 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$52,461 could afford to pay \$350 per month for health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could have purchased private insurance for \$269 per month for a plan (Schedule HC for 2020). Private insurance was affordable for the Appellant in 2020.
8. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was greater than 300% of the federal poverty level, which was \$37,470 for a household of one in 2020. (See Table 2 of Schedule HC-2020 and 956 CMR 12.04).
9. The Appellant testified that they had employer sponsored health insurance for the period of January through May. The Appellant said that due to Covid-19 they lost their job in March but their employer continued providing health insurance through May. The Appellant said that beginning in April their only source of income was unemployment compensation (Appellant Testimony).
10. The Appellant submitted documentation verifying weekly unemployment compensation of \$634 for the period beginning April 2020. The weekly unemployment compensation was reduced to \$540 for the months of November and December 2020 (Exhibit 4).
11. The Appellant's 2020 monthly living expenses of \$2,931 included: rent-\$1, 575; electricity-\$150; food-\$500; car payment-\$288; car insurance-\$188; gasoline-\$30; cable/internet-\$100 and telephone-\$100. The Appellant testified that they were able to defer their student loans but struggled to meet their monthly living expenses with their unemployment compensation income. The Appellant said that they could not afford to pay a health insurance premium while unemployed. I found the Appellant's testimony 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 had employer sponsored health insurance for the period of January through May in tax year 2020. The Appellant did not have health insurance for the period of June through December and consequently has been

assessed a four-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 2020, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$52,461 could afford to pay \$350 per month for health insurance. According to Table 4, the Appellant, age 26, living in Middlesex County, could have purchased a private insurance plan for \$269 month. See Schedule HC for 2020. Private insurance was affordable for the Appellant in tax year 2020.

The Appellant did not have access to employer sponsored health insurance for the period of June through December in tax year 2020. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income which was greater than \$37,470 for their household of one. See Table 2 of Schedule HC 2020 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2020, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they were employed in the first three months of tax year 2020 and had access to employer sponsored health insurance. Due to Covid-19 the Appellant lost their job in March but the employer continued health insurance through the month of May. The Appellant began receiving unemployment compensation income in April. The Appellant's monthly income was reduced to \$2,747. The unemployment compensation was reduced in November and the Appellant's monthly income was \$2,339 for the months of November and December 2020. The Appellant testified to significant monthly living expenses that in fact exceeded their income for the period of June through December. The Appellant said that since they were having such a difficult time meeting their living expenses, they could not afford to pay a monthly health insurance premium. 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 four-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 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-385

Appeal Decision: Appeal Approved in Part and Denied in Part.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: July 30, 2021

Decision Date: August 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 30, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 2, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal dated March 22, 2021.
- Exhibit 4: The Appellant's letter in support of this Appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 50 in 2020, filed their 2020 Federal Income Tax return as a Head of Household with one dependent claimed (Exhibit 2).
2. The Appellant lived in Hampshire County, MA in 2020 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2020 was \$47,443 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2020 and is assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in March 2021 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an annual adjusted gross income of \$47,443 could afford to pay \$300 for health insurance. In accordance with Table 4, the Appellant, age 50, living in Hampshire County, could have purchased private insurance for \$896 per month for a family plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in tax year 2020.
8. The Appellant testified that for the period of January through March they were employed part time because they were taking classes through the Red Cross to be certified as a Licensed Nursing Assistant (LNA). This employer did not provide health insurance. The Appellant said that they had income of approximately \$150 every two weeks and could not afford to pay for health insurance. The Appellant said that looked into ConnectorCare but could not afford the monthly premium of \$129 quoted. According to this testimony the Appellant's monthly income for the period of January through March 2021 was \$325 (Appellant Testimony).
9. The Appellant testified that they began working as a LNA in March at an extended care facility for seniors and was paid \$13.50 per hour for forty hours weekly. The Appellant stated that they were told that they would have access to employer sponsored health insurance. The Appellant said that the cost was \$39.00 weekly. The Appellant said that they tried repeatedly to obtain information but managers were working from home and the Appellant could not get the information needed to enroll. The Appellant left this job in November to accept a new position. According to this testimony, the Appellant's monthly income for the period of April through November was \$2,340 (Appellant Testimony).
10. The Appellant testified that because of financial difficulties in tax year 2019, they lived with a friend in tax year 2020. The Appellant remains living with their friend. The Appellant had no rent, mortgage, heat, or electricity costs. The Appellant testified to monthly expenses of \$1,347 including: telephone-\$48; food-\$433; car loan-\$610; car insurance-\$63 and gasoline-\$173 (Appellant Testimony).
11. The Appellant was financially eligible for ConnectorCare in 2020 because the Appellant's income of \$42,233 was less than 300% of the federal poverty level which was \$50,730 for a family of two in 2020 (See Table 2 of Schedule HC-2020 and 956 CMR 12.04) (Exhibit 2).
12. The Appellant would not have been eligible for ConnectorCare for the period of April through November 2020 because the Appellant had access to employer sponsored health insurance at a cost of \$169.00 monthly. This is less than the \$300 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2020.
13. The Appellant's testimony regarding their income was inconsistent with the income reported on the Appellant's Schedule HC 2020. I found it credible that the Appellant worked part time while attending classes to obtain their LNA certificate. The Appellant alleged monthly income of approximately \$2,340 for the period of April through December in tax year 2020. The Appellant testified to annual income of approximately \$24,375 but the Appellant's Schedule HC 2020 verified adjust gross income of \$47,443. While the Appellant may have experienced some difficulty

completing the paperwork to enroll in employer sponsored health insurance, I do not find it credible that the Appellant failed to have health insurance for the nine-month period of April through December in tax year 2020 for this reason (Exhibit 2 and Appellant Testimony).

14. The Appellant did not offer any testimony to explain their lack of health insurance in December 2020.

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 2020 tax return as a Head of Household with one dependent claimed. The Appellant did not have health insurance for any months in tax year 2020 and consequently has been assessed a twelve-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a Head of Household with one dependent claimed, with an adjusted gross income of \$47,443 could afford to pay \$300 per month for health insurance. In accordance with Table 4, the Appellant, age 50 living in Hampshire County, could have purchased private insurance for \$896 per month for a family plan (Schedule HC for 2020). Private insurance was not affordable for the Appellant in 2020.

The Appellant was financially eligible for ConnectorCare coverage in 2020 because the Appellant’s income of \$47,443 was less than 300% of the federal poverty level, which was \$50,730 for a household of two in 2020. I find it credible that the Appellant did not have access to employer sponsored health insurance for the period of January through March when the Appellant was attending classes at the Red Cross and working part time.

The Appellant did have access to affordable employer sponsored health insurance at a cost of \$169 while employed as a LNA at the extended care facility for seniors for the period beginning March through November 2020. This is less than the \$300 deemed affordable to the Appellant under Table 3 of Schedule HC for 2020. The Appellant would not have been eligible for ConnectorCare during this period because of access to affordable employer sponsored health insurance 45 CFR § 155.305(f)(1)(ii)(B). The Appellant alleges that for the eight-month period employed by this company they were unable to enroll in the health insurance plan because they were could not obtain the paperwork from the human resources department. Given the extended time and the nature

of the Appellant's employment, I did not find this to be credible. The Appellant did not offer any testimony to explain their lack of health insurance for the month of December 2020.

The Appellant lived with a friend in tax year 2020 and did not have expenses for rent or mortgage, heat, or electricity. The Appellant did have monthly expenses of \$1,343 for telephone, food, and transportation costs. Given the Appellant's part-time income for the period of January through March, purchasing health insurance for this period of time would have caused the Appellant to experience substantial financial hardship for this three-month period. 956 CMR 6.08.

The Appellant began her employment as a LNA in March 2020 and was employed full time for the period of April through November. Given the Appellant's annual income of \$47,443, their monthly living expenses of \$1,347, and the fact that the Appellant could have enrolled in their employer sponsored health insurance at a monthly cost of \$169, the Appellant has failed to demonstrate that the cost of purchasing health insurance for the period of April through November 2020 would have caused the Appellant to experience a serious financial hardship. The Appellant did not offer any testimony regarding their failure to have health insurance for the month of December 2020. The Appellant is subject to a nine-month tax penalty for tax year 2020. See 956 CMR 6.08.

The Appellant should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance for all months as required.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __9____

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: PA20-396

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: August 5, 2021

Decision Date: August 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on August 5, 2021 and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2020

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 32–years-old, is single, and does not have children. She resided in Essex County, MA from January through the end of July, 2020. She had health insurance for the month of January, 2020. (Testimony, Ex. 2)
2. The appellant lost her job in January, 2020, and was unemployed until she moved to another state in July, 2020. She had employer health insurance for the month of January, 2020. (Testimony, Ex. 2)
3. The appellant moved to Colorado at the end of July, 2020 after she was offered a job there. She continued to live and work there for the remainder of the year. (Testimony, Ex.1)
4. The appellant reported an adjusted gross income of \$45,433.00 on her 2020 federal tax return, and reported that she was single with no dependents. (Testimony, Ex. 2)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2020 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant lived with her mother while she resided in Massachusetts, and took care of most of the living expenses because her mother had also lost her job. She covered the bulk of the rent and the other costs listed in Finding 6. Her mother owned a car and paid for the insurance and gasoline. The appellant also incurred moving costs (\$1500.00) and the first month's rent for her new apartment, and had to borrow money from relatives to cover them. (Testimony)
6. From January through July, 2020, the appellant had regular monthly expenses of approximately \$3862.00 for rent (\$2500.00), heat (\$80.00), electricity (\$65.00), cable and internet service (\$80.00), cell phone (\$200.00), automobile loan (\$537.00), and food (\$400.00). The appellant had a student loan, but payment was deferred in 2020. (Testimony)

In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2020](http://www.mass.gov/dor/docs/dor/health-care/2020), and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 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 2020 because the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. She also indicated on her statement that she was the only one in her family earning money and had to cover her moving expenses. She testified that she resided in Massachusetts from January through the end of July. According to the information she provided on her Schedule HC, she was a resident of the state until August 19, 2020. Since she offered clear and consistent testimony on the date of her departure, the end of July will be used for purposes of determining the length of her residence in the state. The instructions on the 2020 Schedule HC (page HC-4) regarding part-year residents contains the following information: “If you moved out of Massachusetts during 2020, the mandate to obtain and maintain health insurance applies to you up until the last full day of the last full month you were a resident.” Since the appellant left Massachusetts at the end of July, the mandate applied to her until the end of that month.

The appellant did not have insurance from February through July. 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 2020, 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 six months, she should have been assessed a penalty of three months (i.e., the months of uninsurance less the gap period of three months). However, she was assessed and is appealing a penalty of four months.²

The appellant testified credibly that she had employer health insurance for the month of January when she lost her job. She testified that she was unemployed from February until she moved to Colorado for another job at the

² Even if one were to use the date of August 19, 2020 for purposes of determining the length of the appellant's residence in the state, the result with respect to the penalty months would still be the same, pursuant to the foregoing instructions in Schedule HC.

end of July. Finally, she testified that she lived with her mother in Massachusetts, but covered most of the monthly expenses because her mother was also unemployed.

The evidence provided by the appellant established that her income for 2020, \$45,433.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 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 \$43,716.00 and \$49,960.00 is deemed to be able to afford a monthly premium of \$287.74 (7.60% of \$45,433.00/12). Table 4 of the Premium Schedule indicates that a 31-year-old individual (the age of the appellant in 2020) in Essex County (where the appellant resided in 2020) could have purchased private health insurance for \$288.00 per month, pretty much the same as the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2020.

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 2020. 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 2020 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 sufficient 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 2020, she incurred basic monthly expenses of approximately \$3862.00. Those expenses were more than her regular monthly pre-tax income of approximately \$3786.00 thereby making a private health insurance premium of \$288.00/month unmanageable. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2020, 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 2020 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA191044

Appeal Decision: The penalty is waived.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: July 14, 2021

Decision Date: August 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing, which was held by telephone on July 14, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on August 18, 2020 with letter in support attached
- Exhibit 1a: Appellant's mortgage statement, November, 2019
- Exhibit 1b: Appellant's paystub, July 7, 2019
- Exhibit 2: Appeal Information sheet Schedule HC, 2019
- Exhibit 3b: Connector notice of hearing sent to Appellant, dated December 10, 2020 for January 8, 2021 hearing
- Exhibit 3a: Connector notice of hearing sent to Appellant, dated April 5, 2021 for May 4, 2021 hearing
- Exhibit 3b: Connector notice of hearing dated June 9, 2021 for July 14, 2021 hearing
- Exhibit 4: Final Appeal Decision, Tax Year 2018, dated August 24, 2020

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 59 years old in 2019. Appellant has one adult child (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Hampden County in 2019 (Exhibit 2, Testimony of Appellant).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$74,154 (Exhibit 2, Testimony of Appellant).

4. Appellant worked as a sub-contractor for a trucking company all of 2019. He hauled mail for the United States Post Office. He earned the same amount each week. His take-home pay was about \$1,049 a week (Testimony of Appellant).
5. Appellant was not offered health insurance by his employer. Appellant tried to obtain health insurance in 2019; he enrolled in a plan but never paid the first month's premium because his truck broke down and he needed to repair it. He felt he couldn't afford the premium (Testimony of Appellant).
6. Appellant has been assessed a tax penalty for all of 2019. 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 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 \$74,154 could afford to pay \$494 per month for health insurance. According to Table 4, Appellant, age 59 and living in Hampden County, could have purchased insurance for \$418 per month. Individual coverage was affordable for the appellant in 2019 (Schedule HC for 2019, Exhibit 2).
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, 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 2019 (Testimony of Appellant).
11. Appellant fell more than thirty days behind in mortgage payments in 2019 once. The rest of the year, Appellant did not pay his mortgage payment on time. He always had to pay the late fee (Testimony of Appellant).
12. Appellant had his phone service canceled at least one time in 2019. He also had his electricity turned off once (Testimony of Appellant).
13. Appellant had the following monthly expenses for basic necessities in 2019: mortgage, property taxes, and home owner's insurance- \$1,453; heat-average of \$166; electricity- \$200; telephone -\$120; food-\$1,075; clothing-\$25; car insurance-\$232; gas and tolls-\$685. During the year, Appellant paid \$1,000 for truck repairs, \$2,400 for personal loan payments, \$600 for plowing of his property, and \$1,800 for repairs to his furnace and plumbing. Appellant raised cows for beef. He spent \$100 a month for care of the cows and gave his adult child \$75 a month (Testimony of Appellant, Exhibit 1a).

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 2019 should be waived, either in whole or in part. Appellant had no health insurance in 2021. 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 2019, the appellant with no dependents claimed with an adjusted gross income of \$74,154 could afford to pay \$494 per month for health insurance. According to Table 4, Appellant, age 59 and living in Hampden County, could have purchased insurance for \$418 per month. Individual coverage was affordable for the appellant in 2019. See Schedule HC for 2019, Exhibit 2.

Appellant worked as a sub-contractor for a trucking company all of 2019. 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-2019, 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 in 2019: mortgage, property taxes, and home owner's insurance- \$1,453; heat-average of \$166; electricity- \$200; telephone -\$120; food-\$1,075; clothing-\$25; car insurance-\$232; gas and tolls-\$685; and debt repayment-\$200. During the year, Appellant paid \$1,000 for truck repairs, \$600 for plowing of his property, and \$1,800 for repairs to his furnace and plumbing. Appellant raised cows for beef. He spent \$100 a month for care of the cows and gave his adult child \$75 a month See the testimony of the appellant which I find to be credible, and Exhibit 1a.

Appellant's expenses came to about \$4,400 a month, not including the amounts he spent on home and truck repairs, support for his adult child, the cost of caring for cows, and the cost of snow plowing his property. Appellant had about \$4,500 disposable income a month. See Exhibit 1b. If Appellant had purchased health insurance at a cost of about \$418, 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 once and had his telephone and electricity service shut off one time during 2019. 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.

Because of financial hardship, I determine that Appellant's penalty should be waived in its entirety.

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