

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-1916

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 28, 2022
Decision Date: July 29, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 28, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Grounds for Appeal by Appellant on 3/20/2022.	(2 PP).
Exhibit 2(a)	Appellant's Statement in Support of Appeal dated 3/20/2021	(1P).
Exhibit 2(B)	3 RD Party Statement in Support of Appeal dated 3/18/2021	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/15/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 39 in 2021, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$47,441. (Exhibit 1).
3. Appellant was employed full time at a restaurant where his approximate monthly net take home pay was \$2,800. (Appellant's Testimony).
4. Appellant's Employer did not offer him Employer Sponsored Insurance("ESI"). (Appellant's Testimony).

5. Appellant investigated Connectorcare but could not afford the premium as he was attempting to save money for permanent shelter. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant was in a transition period and living in a temporary transitional housing. (Appellant's Testimony, Exhibit 2(a)(b)).
8. Appellant had the following approximate monthly living expenses in 2021: Rent: \$900, Car Insurance: \$300, Cell Phone: \$140, Food: \$200, Credit Cards: \$300, Gas: \$300, totaling \$2,140. (Appellant's Testimony, Ex. 2(a)).
9. Appellant secured permanent housing in November, 2021 with rent and utilities of \$1,950 and paid approximately \$8,000 for first, last month's rent and security. (Appellant's Testimony, Ex. 2(a), (b)).
10. According to Table 3 Appellant could have afforded \$300.46 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$275.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.
13. The Appellant obtained ESI in 2021 which is approximately \$74 per week, or x. 4.3 weeks, \$318.20 per month. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to him because he was homeless. He also adduced testimony that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2021. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that his income for 2021, \$47,441.00 was more than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$300.46 per month. According to Table 4, Appellant, age 39 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$275 per month. Individual coverage was affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2021. The Appellant testified he was not offered ESI from his restaurant employer. (Appellant's Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI during the months he was being penalized. (Appellant's Testimony).

Where the Appellant did have access affordable coverage for full-rate insurance on the market but did not have access to ESI, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2021 could be waived if he experienced financial circumstances such that the expense of purchasing

health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2021: Rent: \$900, Car Insurance: \$300, Cell Phone: \$140, Food: \$200, Credit Cards: \$ 300, Gas: \$300, totaling \$2,140. (Appellant's Testimony, Ex. 2(a)).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a hardship pursuant to 956 CMR 6.08(1)(a),(e), and (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant has met his burden that he could not afford the cost of \$300.46 given his transitional housing situation, as well as the monthly expenses of \$2,140, I find the cost of \$300.46 would have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2021 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-179

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: August 19, 2022

Decision Date: August 25, 2022

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 Spouses appeared at the hearing, which was held by telephone on August 19, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Email Grounds for Appeal by Appellant on 3/6/2021.	(2 PP).
Exhibit 2(a)	Appellant's Statement in Support of Appeal dated 3/20/2021	(1P).
Exhibit 2(b)	Appellant's Email in Support of Appeal dated 6/14/202	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 7/8/2022	(2 PP).

The record was left open until September 16, 2022, for the Appellant to submit documentation regarding out of state residency, employer insurance and poof of enrollment in Spouse's health insurance.

On August 25, 2022, the Appellant submitted the following:

Exhibit 4:	2019 W-2 with Connecticut Address.	(1P).
Exhibit 5:	Email from Spouse re: 2020 status dated 8/25/2022	(1P).
Exhibit 6:	1095-B reflecting coverage from June-December 2020	(1P).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married filing jointly with a family size of 2, were ages 29 and 42 in 2020, lived in Hampden County, and had zero (0) dependents. (Exhibit 1).

2. Appellant Spouse who was being penalized moved to Massachusetts in March 2020 from Connecticut and was unemployed due to the pandemic. (Appellant's Testimony, Exs. 2(a)(b)).
3. Appellant Spouse who was being penalized made \$1,300 in February and March 2020 and which was enough for food, rent, and gas. (Exhibit 2(a)).
4. Appellants had to delay their marriage in March 2020 until June 2020. (Appellant's Testimony Exs. 2(a)(b)).
5. Appellant who was not penalized worked in Massachusetts and was covered under an Employer Sponsored Insurance ("ESI"). (Appellant's Testimony, Ex. 1).
6. Appellant became enrolled in Spouse's plan in June 2020 upon becoming married. (Appellant's Testimony). (Appellant's Testimony, Exhibits 2(a), (b)).
7. Appellant's Federal Adjusted Gross Income for 2020 was \$45,832. (Exhibit 1).
8. According to Table 3 penalized Appellant could have afforded \$282.63 per month for health insurance in 2020. According to Table 4 Appellant could have purchased an individual insurance plan for \$241.00 per month.
9. The Appellant would have not been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,7300.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
10. 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>, 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

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. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. The Appellant adduced testimony that he moved to Massachusetts in March 2020, that their wedding was delayed because of Covid, and that he became enrolled in his Spouses plan in June, 2020.. See 956 CMR 6.08(1)(a).

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

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

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

The evidence provided by the Appellant established that their income for 2020, \$45,832.00 was more than 300% of the federal poverty level, which for 2020 was \$50,730.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$282.63 per month. According to Table 4, Appellant, age 29 and living in Hampden County during the time he was being penalized for not having insurance, could have purchased insurance for \$241 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified he left his employment in Connecticut in February 2020 when he moved to Massachusetts and did not have access to ESI. The Appellant testified he was unable to access Employer Sponsored Insurance ("ESI") through his spouse because their wedding was delayed because of Covid until June 2020. (Appellant's Testimony, Exs. 2(a)(b). I find the Appellant did not have access to ESI through his Spouse.

Where the Appellant did have access to affordable coverage and did not have access to Connectorcare we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 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 Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the Appellant in this case is sufficient to establish the penalty should be waived. The Appellant established that he was not a resident of Massachusetts until March 2022. As a result, I find that there is a (3) three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. The Appellant also submitted proof of coverage under his Spouse's ESI beginning in June 2020. (Exhibit 6)

Notwithstanding above the Appellant also adduced evidence that he experienced a reason or financial hardship pursuant to 956 CMR 6.08(1)(a), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$282.63 to afford the cost of purchasing private insurance where his income was \$1,300 per month (Testimony, Ex. 4). I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is allowed.

Appellant should note that any waiver granted him 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

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.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1809

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 22, 2022

Decision Date: August 4, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on June 22, 2022.

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 16, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Supporting Letter	1 page
Exhibit 5	Oracle Documents	5 pages
Exhibit 6	Amadeus Termination Notice	3 pages
Exhibit 7	Form MA 1099 HC	1 page

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 30 years old in July 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA during 2021. (Appellant's Testimony, which I credit and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$86,079.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during seven (7) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a four (4)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$86,079.00, could afford to pay \$574.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30 years, living in Suffolk County could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021 from January through July. ESI did become available to Appellant from August through December 2021, when Appellant secured a new job and availed themselves of that insurance. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$86,079.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant was laid off from their job in December 2020 because of the COVID-19 pandemic. (Appellant's Testimony and Exhibit 6).

11. The Appellant left the United States at the beginning of February 2021 because of the terms of their H-1B VISA. They knew that because of their Visa status, they would have to leave the United States promptly upon becoming unemployed. Further, they did not understand how the Health Connector marketplace operated. (Appellant's Testimony).
12. Appellant returned to live in Massachusetts at the beginning of July 2021 upon securing a job with a large data management company. (Appellant's Testimony and Exhibit 3). Appellant promptly applied for MCC-compliant health insurance through their new employer in July 2021, which became effective at the beginning of August 2021, and continues to have that insurance coverage currently. (Appellant's Testimony and Exhibit 4).
13. The Appellant prepared their own tax forms for 2021 using a computer software package. Appellant was confused by the tax forms and did not understand how to complete those forms to indicate that they lived outside the country, and were not a Massachusetts resident, from February 2021 until July 1, 2021. (Appellant's Testimony, which I credit, and Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021 they purchased health insurance that was not MCC-compliant, apparently when they were living outside the country. (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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$86,079.00, could afford to pay \$574.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30 years, living in Suffolk County could have purchased private market health insurance for \$263.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021 from January through July. ESI did become available to Appellant from August through December 2021, when Appellant secured a new job and health insurance through that employer.

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$86,079.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant was laid off from their job in December 2020 because of the COVID-19 pandemic. (Appellant's Testimony and Exhibit 6).

The Appellant left the United States in February 2021 because of the terms of their H-1B VISA. They returned to live in Massachusetts at the beginning of July 2021 upon securing a job with a large data management company. (Appellant's Testimony and Exhibit 3).

The Appellant prepared their own tax forms for 2021 using a computer software package. They were confused by the forms and did not understand how to complete those forms to indicate that they lived outside the country and were not a Massachusetts resident from February 2021 until July 1, 2021. (Appellant's Testimony, which I credit, and Exhibit 2).

Appellant obtained MCC-compliant health insurance through their new employer in July 2021, which became effective at the beginning of August 2021, and continues to have that insurance currently. (Appellant's Testimony and Exhibit 4).

As an initial matter, I find that Appellant lived outside Massachusetts; indeed, outside the United States, for five (5) months, from February 2021 until July 1, 2021. Appellant's testimony and Exhibit 4. Thus, I find that Appellant was not required to have had MCC-compliant health insurance during those five (5) months. Appellant lived in Massachusetts and did not have MCC-compliant insurance during January 2021 and July 2021. Appellant was newly unemployed in January 2021 and did not understand the Health Connector marketplace. Moreover, they knew that because of their VISA status, they would have to leave the United States promptly. When they returned to Massachusetts in July 2021, they had a new job and immediately applied for ESI but had to wait a month for it to become effective. Based on all the evidence and testimony in the record, I conclude that Appellant was uninsured for only two months during 2021. Applying the three-month grace period, they would not be assessed a penalty. Further, they made a good faith and prompt effort to comply with the individual

mandate upon returning to Massachusetts and remain insured currently. For all these reasons, Appellant's four-month penalty assessment should be waived entirely.

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.

Hearing Officer

cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-699

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: August 19, 2022
Decision Date: August 25, 2022

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 Mother who was appointed as Power of Attorney appeared at the hearing, which was held by telephone on August 19, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Grounds for Appeal by Appellant on 4/28/2021.	(2 PP).
Exhibit 2(a)	Appellant's Statement in Support of Appeal dated 4/28/2021	(1P).
Exhibit 3:	Health Connector's Notice of Hearing dated 7/8/2022	(2 PP).
Exhibit 4:	Power of Attorney	(2PP).

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 26 in 2020, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$53,593. (Exhibit 1).
3. Appellant was insured through his employer's plan until April 2020 when he lost employment and coverage due to Covid. (Appellant's Testimony, Exhibit 2(a)).

4. Appellant made numerous good faith efforts to investigate insurance through the Connectorcare after denied MassHealth but was unable to coordinate and confirm with the Connector (Appellant's Testimony, Ex. 2(a)).
5. Appellant was collecting unemployment benefits and was eventually denied benefits through the Connector. (Appellant's Testimony, Exhibit 2(a)).
6. Appellant was eventually able to qualify for Connectorcare benefits in January 2021 with a premium of approximately \$309 per month. (Appellant's Testimony, Exhibit 2(a)).
7. Appellant returned to full time employment shortly thereafter in the beginning of 2021 and became enrolled in Employer Sponsored Insurance ("ESI"). (Appellant's Testimony, Exhibit 2(a)).
8. Appellant has been assessed a tax penalty for five (5) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average approximate monthly living expenses in 2020: Rent: \$975, Food: \$200, Car Payment: \$235, Care Insurance: \$200, Cable/Internet: \$60, Student Loans: \$660, Credit Cards: \$100, totaling \$2,430. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$357.29 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. 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>, 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

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. Appellant has been assessed a tax penalty for five (5) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked: Other.: that during 2020 and testified during the hearing that the individual mandate did not apply to him during 2020 because of a natural disaster (Covid) and also that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2020, \$53,393.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant could have afforded \$357.29 per month. According to Table 4, Appellant, age 26 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$269 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified he was laid off in April and could not afford COBRA. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access to affordable coverage, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 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 Appellants’ tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average approximate monthly living expenses in 2020: Rent: \$975, Food: \$200, Car Payment: \$235, Care Insurance: \$200, Cable/Internet: \$60, Student Loans: \$660, Credit Cards: \$100, totaling \$2,430. (Appellant’s Testimony). (Appellant’s Testimony, ex. 2(a)).

The evidence presented by the Appellant in this case is sufficient to establish that he experienced a hardship pursuant to 956 CMR 6.08(1)(a), (3), as defined by law so as to waive his penalty for the months in question. I find the Appellant met his burden that he could not afford the cost of \$360.40 and did not have adequate income to afford the cost of purchasing private insurance given his credible concerns that as a twenty-six (26) year old who had to resort to unemployment, his monthly expenses of \$2,430 did not

allow him to purchase insurance. I find this would have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony). The Appellant adduced credible testimony that he made good faith efforts to apply for and obtain Connectorcare, and obtained insurance as soon as he was able, and is currently insured through ESI.

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

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: 5 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-1918

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 28, 2022
Decision Date: August 26, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 28, 2022. The Appellant had a Mandarin interpreter. The procedures to be followed during the hearing were reviewed with the Appellant and the Interpreter who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal by Appellant on 3/24/2022.	(2 PP).
Exhibit 2(a)	2020 1042-S	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/15/2022	(2 PP).

The record was left open until August 26, 2022, for the Appellant to submit documentation regarding out of state and MA partial residency and employer health insurance. On August 2, 2022, the Appellant submitted the following:

Exhibit 4:	Massachusetts Lease Tenancy Commencing May 29, 2022.
Exhibit 5:	United Health Care Card 5/2/1/21.
Exhibit 6:	Email from the Appellant summarizing additional documents including after visit summary in North Carolina in May 2021 and NC Residence 2021 USCIS documents.

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 24 in 2021, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).

2. Appellant's Federal Adjusted Gross Income for 2021 was \$42,172. (Exhibit 1).
3. Appellant testified she moved to Massachusetts in June 2021 from North Carolina. (Appellant's Testimony, Exhibit 2(a),4).
4. Appellant was insured through Employer Sponsored Insurance. ("ESI"). (Appellant's Testimony, Exhibits 4-6).
5. Appellant has been assessed a tax penalty for three (3) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
6. According to Table 3 Appellant could have afforded \$261.82 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$263.00 per month.
7. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant's Testimony).
8. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.
9. Appellant corroborated that she was a resident of North Carolina during the months for which she was being penalized for not having health insurance. (Appellant's Testimony, Exhibits 4-6).
10. Appellant submitted evidence that during the time she was a resident of North Carolina she had health insurance. (Appellant's Testimony, Exhibits 4-6).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to her during 2021 because "Other": that she did not reside in Massachusetts during her period of uninsurance. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2021, \$42,172.00 was more than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$ 261.82 per month. According to Table 4, Appellant, age 24 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$263 per month. Individual coverage was not affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2021. The Appellant testified she had Employer Sponsored Insurance ("ESI") (Testimony, Exhibits 4-6). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did have access to Employer Sponsored Insurance ("ESI") for the months she was being penalized. (Appellant's Testimony).

The evidence presented by the Appellant in this case is sufficient to establish that she was not a resident of Massachusetts during the time she was penalized for not having insurance, and that she had health insurance during that time.

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2021 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-1919

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 28, 2022
Decision Date: August 25, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 28, 2022. The procedures to be followed during the hearing were reviewed with the Appellant and the Interpreter who were then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Email Grounds for Appeal by Appellant on 3/8/2022.	(2 PP).
Exhibit 2(a)	2021 Earnings Statements and Banking Account Summary	(20 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/15/2022	(2 PP).

The record was left open until August 19, 2022, for the Appellant to submit documentation regarding out of state and MA partial residency and proof of out of state insurance.

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 21 in 2021, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$32,119. (Exhibit 1).
3. Appellant testified she moved to Massachusetts in March 2021. (Appellant's Testimony).

4. Appellant testified she was insured through New York State Medicaid (“ESI”). (Appellant’s Testimony).
5. Appellant testified she was a full-time student but did not have access to health insurance through her university. (Appellant Testimony).
6. Appellant obtained Employer Sponsored Insurance (“ESI”) when she began full time employment in July 2021. (Exhibit 1, (2a), (b), Appellant testimony).
7. Appellant has been assessed a tax penalty for three (3) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant supported herself, took home less than \$200 a week and had recurring essential monthly living expenses of \$800-\$900 dollars during the time she was being penalized. (Appellant Testimony, Exhibits 2(a), (b)).
9. According to Table 3 Appellant could have afforded \$133.83 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$263.00 per month.
10. The Appellant would have been eligible for ConnectorCare coverage in 2021 because the Appellant’s income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant’s Testimony).
11. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to her during 2021 because “Other”: that she did not reside in Massachusetts during her period of uninsurance. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2021, \$32,119 was less than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$133.83 per month. According to Table 4, Appellant, age 21 and living in Suffolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$263 per month. Individual coverage was not affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2021. The Appellant worked part time until July 2021 when she began Employer Sponsored Insurance ("ESI"). (Exhibits 1, 2(a), (b)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to Employer Sponsored Insurance ("ESI") for the months she was being penalized. (Appellant's Testimony).

Where the Appellant did not have access to ESI but did have access affordable coverage for full-rate insurance on through the Connectorcare, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2021 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 hardship pursuant to 956 CMR 6.08(1)(a), (3), as defined by law so as to waive her penalty for the months

in question. I find the Appellant met her burden that she could not afford the cost of \$133.83 and did not have adequate income to afford the cost of purchasing private insurance given her credible testimony she was a student, and her net take home pay was approximately \$800 per month and her basic monthly living expenses were between \$800-\$900. As such, I find the cost of \$133.83 would have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2021 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-1920

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 28, 2022
Decision Date: July 29, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 28, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Email Grounds for Appeal by Appellant on 3/25/2022.	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/15/2022	(2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return filed single with a family size of 1, was age 27 in 2021, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2021 was \$46,122. (Exhibit 1).
3. Appellant's full-time employer was unable to provide coverage because Appellant's hours were reduced due to reduction in her Employer's business because of Covid. (Appellant's Testimony, Exhibit 2(a)).
4. Appellant's salary was reduced to hourly compensation and her approximate net take home pay was \$1,000. (Appellant's Testimony).

5. Appellant investigated insurance through the Connector but was denied because of her income. (Appellant's Testimony).
6. Appellant eventually obtained Connectorcare in September, 2021 and paid approximately \$170 per month. (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for five (5) months in 2021. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant could not afford insurance during the time her hours were reduced because she had to pay for her basic necessities. (Appellant's Testimony, Exhibit 2(a)).
9. Appellant had the following approximate monthly living expenses in 2021: Rent and Utilities: \$630, Car Payment: \$50, Cell Phone: \$100, Internet: \$50, Food: \$100, totaling \$930. (Appellant's Testimony,).
10. According to Table 3 Appellant could have afforded \$292.10 per month for health insurance in 2021. According to Table 4 Appellant could have purchased insurance for \$263.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the poverty level, which was \$38,280.00. (See Table 2 of Schedule HC 2021, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2021. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal and checked that during 2021 that the individual mandate did not apply to her during 2021 because "Other": that she was unable to obtain government sponsored-subsidized insurance. She also testified that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2021. See 956 CMR 6.08.

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

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

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

The evidence provided by the Appellant established that her income for 2021, \$46,122.00 was more than 300% of the federal poverty level, which for 2021 was \$38,280.00 for a single person. According to Table 3 of Schedule HC for 2021, the Appellant could have afforded \$292.10 per month. According to Table 4, Appellant, age 27 and living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$263 per month. Individual coverage was affordable through the individual market for the Appellant in 2021 (Schedule HC for 2021).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2021. The Appellant testified her hours were reduced because of Covid and because of the reduced hours she was not eligible for Employer Sponsored Insurance ("ESI"). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to Employer Sponsored Insurance ("ESI") for a portion of the months she was being penalized. (Appellant's Testimony).

Where the Appellant did not have access to ESI but did have access affordable coverage for full-rate insurance on the market, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for her. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2021. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2021 could be waived if she experienced financial circumstances such that the expense of purchasing

health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2021: Rent and Utilities: \$630, Car Payment: \$50, Cell Phone: \$100, Internet: \$50, Food: \$100, totaling \$930. (Appellant's.

The evidence presented by the Appellant in this case is sufficient to establish that she experienced a hardship pursuant to 956 CMR 6.08(1)(a), (3), as defined by law so as to waive her penalty for the months in question. I find the Appellant met her burden that she could not afford the cost of \$292.10 and did not have adequate income to afford the cost of purchasing private insurance given her credible testimony that given the uncertainty of her income where her hours were reduced, as well as the monthly expenses of \$930. As such, I find the cost of \$262.71 would have caused the Appellant to experience a serious deprivation of shelter and other necessities. (Appellant Testimony).

Based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

Appellant should note that any waiver granted here is for 2021 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1806

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 22, 2022

Decision Date: August 1, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on June 22, 2022.

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 16, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Monthly Statements	9 pages
Exhibit 5	Final Appeal Decision PA15-58	5 pages

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Appellant turned 37 years old in February 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA during 2021. (Appellant's Testimony, which I credit and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$41,778.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$41,778.00, could afford to pay \$259.37 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 37 years, living in Middlesex County could have purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was available to Appellant during 2021 at a cost of more than \$300.00 monthly. Thus, ESI was not affordable for the Appellant during 2021. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$41,778.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant worked as a kindergarten teacher during 2021. (Appellant's Testimony).
11. Appellant testified that their net take home pay after taxes during 2021 was \$1,300.00 every other week. Their monthly net take home pay was \$2,600.00. (Appellant's Testimony, which I credit).

12. Appellant's income and taxes were higher than normal during 2021 because of receiving COVID relief money and a teacher appreciation bonus from their employer at the end of 2021. The bonus was unexpected, and Appellant did not know if or when during the year they would receive COVID relief money. (Appellant's Testimony).
13. Appellant contracted COVID during 2021. (Appellant's Testimony).
14. Appellant applied for MassHealth insurance during 2021 and was denied coverage. (Appellant's Testimony).
15. The Appellant's monthly living expenses of \$2,658.00 included: Rent - \$950.00, Telephone - \$110.00, Food - \$125.00, Car insurance - \$177.00, Car payments - \$346.00, Gas - \$280.00, Cable/internet - \$70.00 and Credit Card debt - \$600.00. Appellant has total credit card debt of approximately \$25,000.00, which they must continue to pay down. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that the expense of purchasing health insurance would have caused a serious deprivation of food and other basic necessities. (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.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$41,778.00, could afford to pay \$259.37 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 37 years, living in Middlesex County could have

purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was available to Appellant during 2021 at a cost of more than \$300.00 monthly. Thus, ESI was not affordable for the Appellant during 2021. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$41,778.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant worked as a kindergarten teacher during 2021. (Appellant's Testimony).

Appellant testified that their net take home pay after taxes during 2021 was \$1,300.00 every other week. Their monthly net take home pay was \$2,600.00. (Appellant's Testimony, which I credit).

Their income and taxes were higher than normal during 2021 because of receiving COVID relief money and a teacher appreciation bonus from their employer at the end of 2021. The bonus was unexpected, and Appellant did not know if or when they would receive COVID relief money. (Appellant's Testimony).

Appellant contracted COVID during 2021. (Appellant's Testimony).

Appellant applied for MassHealth insurance during 2021 and was denied coverage. (Appellant's Testimony).

The Appellant's monthly living expenses of \$2,658.00 included: Rent - \$950.00, Telephone - \$110.00, Food - \$125.00, Car insurance - \$177.00, Car payments - \$346.00, Gas - \$280.00, Cable/internet - \$70.00 and Credit Card debt - \$600.00. Appellant has total credit card debt of approximately \$25,000.00, which they must continue to pay down. (Appellant's Testimony, which I credit).

The Appellant had no access to affordable insurance coverage during 2021. No available affordable coverage was available to them through employment, the private market and ConnectorCare. There is no evidence in the record that the Appellant had access to any other government-sponsored programs. Since no affordable coverage through the ConnectorCare program or otherwise was available, the Appellant's 12-month penalty is waived in its entirety.

Even if affordable coverage had been available, the Appellant's penalty would be waived because of hardship. See 956 CMR 6.08(1) & (3). The Appellant's AGI of 41,778.00 for 2021 obscures the fact that they did not receive COVID relief money and a teacher appreciation bonus until late in the year, when it would have been too late to purchase private insurance which, in any event, would still have been deemed unaffordable under the DOR's tables. Appellant's net take home pay of \$2,600.00 was insufficient to cover their monthly expenses of \$2,658.00. Based on all the evidence and testimony in the record, Appellant has demonstrated that

purchasing health insurance in 2021 would have caused hardship that would have deprived them of food, shelter and other basic necessities. See 956 CMR 6.08 (1) & (3).

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

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.²

PENALTY ASSESSED

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

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

² If Appellant does not have MCC-compliant health insurance before next year, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-6765 or www.mahealthconnector.org during the Open Enrollment period, from November 1, 2022 through January 23, 2023.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1810

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 22, 2022

Decision Date: August 9, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on June 22, 2022. Appellant was accompanied at the hearing by their partner, at Appellant's request.

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 16, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	4 pages
Exhibit 4	Intuit TurboTax Instructions to E-File 2020 Tax Return	1 page
Exhibit 5	1040 US Income Tax Return	1 page

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 62 years old in September 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Worcester County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$20,751.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,751.00, could afford to pay \$50.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 62 years, living in Worcester County could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$20,751.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant had difficulty finding work during 2021 because of the COVID-19 pandemic. They eventually became employed by a small nail salon that year. Their income was unpredictable and no employer insurance was offered. (Appellant's Testimony).

11. Appellant did not understand the Health Connector marketplace or that they were income-eligible for ConnectorCare coverage. (Appellant's testimony, which I credit).
12. The Appellant's monthly living expenses of \$1,863.00 included: Telephone - \$80.00, Food - \$600.00, Car insurance - \$150.00, Car payments - \$833.00, Gas - \$200.00. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021 they expense of purchasing health insurance would have led to a deprivation of food and other living expenses. (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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$20,751.00, could afford to pay \$50.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 62 years, living in Worcester County could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$20,751.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant had difficulty finding work during 2021 because of the COVID-19 pandemic. They eventually became employed by a small nail salon that year. Their income was unpredictable and no employer insurance was offered. (Appellant's Testimony).

Appellant did not understand the Health Connector marketplace or that they were income-eligible for ConnectorCare coverage.² (Appellant's testimony, which I credit).

The Appellant's monthly living expenses of \$1,863.00 included: Telephone - \$80.00, Food - \$600.00, Car insurance - \$150.00, Car payments - \$833.00, Gas - \$200.00. (Appellant's Testimony, which I credit).

Appellant's monthly living expenses totaled \$1,863.00 or \$22,356.00 annually. Thus, Appellant's annual expenses exceeded their AGI of \$20,751.00. Appellant did not understand the Health Connector market place or that they were income-eligible for ConnectorCare coverage, about which they have now been informed. Based on all the evidence and testimony in the record, I conclude that Appellant has demonstrated that purchasing health insurance in 2021 would have caused hardship that would have deprived them of food, shelter and other basic necessities. See 956 CMR 6.08 (1) & (3). The Appellant's 12-month penalty is, thus, waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

² If Appellant does not have MCC-compliant health insurance before next year, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-6765 or www.mahealthconnector.org during the Open Enrollment period, from November 1, 2022 through January 23, 2023.

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1824

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 30, 2022

Decision Date: August 15, 2022

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 30, 2022. Appellant was accompanied at the hearing by their partner, at Appellant's request.

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 23, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Health Connector Notices re Health Safety Net, 7/22/21	4 pages
Exhibit 5	Health & Human Services Notice, 3/9/22 MassHealth Provider Online Service Center	2 pages

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 58 years old in July 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Suffolk County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$26,983.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,983.00, could afford to pay \$94.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 58 years, living in Suffolk County could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$26,983.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. During 2021, Appellant was employed by a small business that did not offer health insurance. (Appellant's Testimony).

11. Appellant provided documentation indicating that during 2021, they qualified for Health Safety Net Partial. They did not qualify for MassHealth or any other government-subsidized Health Insurance. (Exhibits 3 & 4 and Appellant's Testimony).
12. The Appellant's monthly living expenses of \$1,412.00 included: Rent - \$600.00, Electricity - \$200.00, Telephone - \$162.00, Food - \$300.00, Child support - \$300.00, Support of out-of-country parent - \$150.00. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021 applying the Affordability Tables in Schedule HC to them was inequitable and they were unable to obtain government-subsidized insurance. (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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,983.00, could afford to pay \$94.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 58 years, living in Suffolk County could have purchased private market health insurance for \$401.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$26,983.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

During 2021, Appellant was employed by a small business that did not offer health insurance. (Appellant's Testimony).

Appellant provided documentation indicating that during 2021, they qualified for Health Safety Net Partial. They did not qualify for MassHealth or any other government-subsidized Health Insurance. (Exhibits 3 & 4 and Appellant's Testimony).

The Appellant's monthly living expenses of \$1,412.00 included: Rent - \$600.00, Electricity - \$200.00, Telephone - \$162.00, Food - \$300.00, Child support - \$300.00, Support of out-of-country parent - \$150.00. (Appellant's Testimony, which I credit).

Based on all the evidence and testimony in the record, I conclude that Appellant has demonstrated that they qualified for HealthSafety Net Partial during 2021 and did not qualify for MassHealth or another government-subsidized health insurance program. Further, they demonstrated that purchasing health insurance would have caused them hardship. See 956 CMR 6.08 (1) & (3). For all these reasons, the Appellant's 12-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1827

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 30, 2022

Decision Date: August 15, 2022

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 30, 2022. Appellant was accompanied at the hearing by their partner, at Appellant's request.

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 23, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Supporting Letter	1 page
Exhibit 5	Decision PA12-703	4 pages
Exhibit 6	Decision PA13-1630	4 pages

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 38 years old in October 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Worcester County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$23,984.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,984.00, could afford to pay \$58.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 38 years, living in Worcester County could have purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was available to Appellant during 2021 at a cost of about \$64.00 monthly. Appellant did not enroll in that insurance because of their fluctuating and unpredictable work hours and income and insecurity about whether they could pay for insurance. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$23,984.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant had a part-time retail job as a support specialist during 2021. At some time during 2021, Appellant's hours were cut from about 20 hours per week to twelve (12) hours per week because of the COVID-19 pandemic. Their hours fluctuated throughout

2021, making budget planning virtually impossible. (Appellant’s Testimony and Exhibit 4).

11. During 2021 Appellant experienced a rent increase. Additionally, their roommate planned to move, putting a further strain on Appellant’s resources. (Appellant’s Testimony).
12. Appellant stated that they were denied MassHealth coverage. They believed they had explored ConnectorCare coverage also but did not fully understand how that marketplace works. (Appellant’s Testimony, which I credit).
13. Appellant is in the process of looking for full-time work that will allow them to secure affordable health insurance. (Appellant’s Testimony).
14. Appellant did not understand the Health Connector marketplace or that they were income-eligible for ConnectorCare coverage.² (Appellant’s Testimony, which I credit).
15. The Appellant’s monthly living expenses of \$1,800.00 included: Rent - \$500.00, Utilities - \$150.00, Telephone - \$85.00, Food - \$450.00, Gas - \$240.00, Internet - \$75.00, Credit card debt - \$300.00. Additionally, Appellant has approximately \$9,000.00 in student loans to repay. (Appellant’s Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021 they expense of purchasing health insurance would have led to a deprivation of food and other living expenses. (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

² If Appellant does not have MCC-compliant health insurance before next year, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-6765 or www.mahealthconnector.org during the Open Enrollment period, from November 1, 2022 through January 23, 2023.

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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,984.00, could afford to pay \$58.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 38 years, living in Worcester County could have purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was available to Appellant during 2021 at a cost of about \$64.00 monthly. Appellant did not enroll in that insurance because of their fluctuating and unpredictable work hours and income and insecurity about whether they could pay for insurance. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$23,984.00 was less than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant had a part-time retail job as a support specialist during 2021. At some time during 2021, Appellant's hours were cut from about 20 hours per week to twelve (12) hours per week because of the COVID-19 pandemic. Their hours fluctuated throughout 2021, making budget planning virtually impossible. (Appellant's Testimony and Exhibit 4).

During 2021 Appellant experienced a rent increase. Additionally, their roommate planned to move, putting a further strain on their resources. (Appellant's Testimony).

Appellant stated that they were denied MassHealth coverage. They believed they had explored ConnectorCare coverage also but did not fully understand how that marketplace works. (Appellant's Testimony, which I credit).

Appellant is in the process of looking for full-time work that will allow them to secure affordable health insurance. (Appellant's Testimony).

The Appellant's monthly living expenses of \$1,800.00 included: Rent - \$500.00, Utilities - \$150.00, Telephone - \$85.00, Food - \$450.00, Gas - \$240.00, Internet - \$75.00, Credit card debt - \$300.00. Additionally, Appellant has approximately \$9,000.00 in student loans to repay. (Appellant's Testimony, which I credit).

Appellant's AGI of \$23,984.00 obscures the fact that Appellant's part-time hours were reduced and fluctuating during 2021 because of the COVID-19 pandemic, thus complicating budget planning and causing Appellant stress. Their rent was increased during that year and their roommate was leaving, causing Appellant to incur additional expenses they could not cover. Based on all the evidence and testimony in the record, I conclude that Appellant has demonstrated that purchasing health insurance during 2021 would have caused them hardship. See 956 CMR 6.08 (1) & (3).

For all these reasons, the Appellant's 12-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1828

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 30, 2022

Decision Date: August 15, 2022

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 30, 2022. Appellant was accompanied at the hearing by their partner, at Appellant's request.

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 23, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	7 pages
Exhibit 4	Supporting Letter	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 39 years old in April 2021. 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 Middlesex County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$62,645.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$62,645.00, could afford to pay \$418.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 39 years, living in Middlesex County could have purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony, which I credit).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$62,645.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant was employed as a window repair person for a power company until April 1, 2021. The company lost business during the COVID-19 pandemic and laid off most employees, including Appellant, in 2021. (Appellant's Testimony, which I credit).
11. Appellant's employer did not offer health insurance. Appellant applied for MassHealth coverage and was denied. Appellant did not understand the ConnectorCare marketplace and their possible options in that program.² (Appellant's Testimony, which I credit).

² If Appellant does not have MCC-compliant health insurance before next year, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-

12. During 2021, Appellant had a few jobs through a temporary staffing agency but none offered health insurance as Appellant was not working in those jobs long enough to become eligible for insurance. (Appellant's Testimony). Appellant continues to look for a full-time job. (Appellant's Testimony).
13. Appellant's ill father died a few years earlier and their aging mother was also ill during 2021. Appellant assumed responsibility for caring for their mother and assisting with household expenses. (Appellant's Testimony and Exhibit 4).
14. Appellant received several notices about arrearages on their mortgage payments and foreclosure notices. Additionally, Appellant has payment plans for all their utilities. (Appellant's Testimony, which I credit).
15. The Appellant's monthly living expenses of \$2,525.00 included: Mortgage - \$700.00, Utilities - \$400.00, Telephone/cable - \$225.00, Food - \$600.00, Gas - \$300.00, Credit card debt - \$300.00. Additionally, Appellant has approximately \$9,000.00 in student loans to repay. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked three boxes on their Statement of Grounds for Appeal stating that during 2021: (1) they incurred a significant, unexpected expense of providing care for an aging family member; (2) expense of purchasing health insurance would have led to a deprivation of food and other living expenses; and (3) Appellant was unable to obtain government-subsidized insurance. (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

6765 or www.mahealthconnector.org during the Open Enrollment period, from November 1, 2022 through January 23, 2023.

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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$62,645.00, could afford to pay \$418.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 39 years, living in Middlesex County could have purchased private market health insurance for \$275.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony, which I credit).

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$62,645.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant was employed as a window repair person for a power company until April 1, 2021. The company lost business during the COVID-19 pandemic and laid off most employees, including Appellant, in 2021. (Appellant's Testimony, which I credit.).

Appellant's employer did not offer health insurance. They applied for MassHealth coverage and were denied. Appellant did not understand the ConnectorCare marketplace and their possible options in that program.³ (Appellant's Testimony, which I credit.).

Appellant had a few jobs through a temporary staffing agency but none offered health insurance as Appellant was not working in those jobs long enough to become eligible for insurance. (Appellant's Testimony). Appellant continues to look for a full-time job. (Appellant's Testimony).

Appellant's ill father died a few years earlier and their aging mother was also ill. Appellant assumed responsibility for caring for their mother and assisting with household expenses. (Appellant's Testimony and Exhibit 4).

³ If Appellant does not have MCC-compliant health insurance before next year, they were encouraged to contact the Health Connector to explore possible options by calling 1-877-623-6765 or www.mahealthconnector.org during the Open Enrollment period, from November 1, 2022 through January 23, 2023.

The Appellant's monthly living expenses of \$1,800.00 included: Rent - \$500.00, Utilities - \$150.00, Telephone - \$85.00, Food - \$450.00, Gas - \$240.00, Internet - \$75.00, Credit card debt - \$300.00. Additionally, Appellant has approximately \$9,000.00 in student loans to repay. (Appellant's Testimony, which I credit).

Appellant received several notices about arrearages on their mortgage payments and foreclosure notices. Additionally, Appellant has payment plans for all their utilities. (Appellant's Testimony, which I credit).

The Appellant's monthly living expenses of \$2,525.00 included: Mortgage - \$700.00, Utilities - \$400.00, Telephone/cable - \$225.00, Food - \$600.00, Gas - \$300.00, Credit card debt - \$300.00. Additionally, Appellant has approximately \$9,000.00 in student loans to repay. (Appellant's Testimony, which I credit).

The Appellant's AGI of \$62,645.00 obscures the fact that Appellant was unemployed after April 2021, except for a few temporary jobs; they were late making mortgage payments and received foreclosure notices; and they assumed responsibility for caring for their aging and ill mother after their father dies. Based on all the evidence and testimony in the record, I conclude that Appellant has demonstrated that purchasing health insurance during 2021 would have caused them hardship. See 956 CMR 6.08 (1) & (3).

For all these reasons, the Appellant's 12-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1829

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 30, 2022

Decision Date: August 15, 2022

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 30, 2022. Appellant was accompanied at the hearing by their partner, at Appellant's request.

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 23, 2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	5 pages
Exhibit 4	Supporting Letter	1 page
Exhibit 5	Rental Agreement	1 page
Exhibit 6	Goodwill Enterprises Pay Stubs	3 pages

FINDINGS OF FACT

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

The record shows, and I so find:

1. The Appellant turned 43 years old in May 2021. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Norfolk County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$63,054.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$63,054.00, could afford to pay \$420.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 43 years, living in Norfolk County could have purchased private market health insurance for \$294.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony, which I credit).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$63,054.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant was laid off from their job at the end of 2020 because of the COVID-19 pandemic. They did not find a new job until the end of 2021. Their new employer required a three-month eligibility period before offering health insurance. (Appellant's Testimony, which I credit).

11. Appellant was unfamiliar with the Health Connector marketplace and options for insurance coverage through that market. (Appellant's Testimony).
12. The Appellant currently has MCC-compliant health insurance through their employer. (Appellant's Testimony).
13. The Appellant's monthly living expenses of \$4,540.00 included: Rent - \$2,200.00, Heat - \$300.00, Electricity - \$50.00, Car insurance - \$160.00, Car payments - \$270.00, Telephone - \$85.00, Food - \$400.00, Gas - \$50.00, Internet - \$75.00, Credit card debt - \$300.00. Child support - \$650.00. (Appellant's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on their Statement of Grounds for Appeal stating that during 2021 the expense of purchasing health insurance would have led to a deprivation of food and other living necessities. (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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$63,054.00, could afford to pay \$420.00 per month for government-sponsored health insurance.

In accordance with Table 4, the Appellant, age 43 years, living in Norfolk County could have purchased private market health insurance for \$294.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was affordable for the Appellant in 2021.

Employer-sponsored insurance (ESI) was not available to Appellant during 2021. (Appellant's Testimony, which I credit).

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$63,054.00 was more than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant was laid off from their job at the end of 2020 because of the COVID-19 pandemic. They did not find a new job until the end of 2021. Their new employer required a three-month eligibility period before offering health insurance. (Appellant's Testimony, which I credit).

Appellant was unfamiliar with the Health Connector marketplace and options for insurance coverage through that market. (Appellant's Testimony).

The Appellant currently has MCC-compliant health insurance through their employer. (Appellant's Testimony).

The Appellant's monthly living expenses of \$4,540.00 included: Rent - \$2,200.00, Heat - \$300.00, Electricity - \$50.00, Car insurance - \$160.00, Car payments - \$270.00, Telephone - \$85.00, Food - \$400.00, Gas - \$50.00, Internet - \$75.00, Credit card debt - \$300.00. Child support - \$650.00. (Appellant's Testimony, which I credit).

The Appellant's AGI of \$63,054.00 obscures the fact that Appellant was unemployed until late 2021. Their new employer did not offer health insurance to new employees until completion of a three-month probationary period, and Appellant did not have wage income until the end of 2021. Appellant was unfamiliar with the Health Connector marketplace and possible insurance coverage options through that marketplace. Appellant currently has MCC-compliant health insurance through their employer. Based on all the evidence and testimony in the record, I conclude that Appellant has demonstrated that purchasing health insurance during 2021 would have caused them hardship. See 956 CMR 6.08 (1) & (3).

For all these reasons, the Appellant's 12-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1902

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 27, 2022

Decision Date: August 31, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on July 27, 2022.

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 June 13,2022	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC for 2021	1 page
Exhibit 3	Statement of Grounds for Appeal	7 pages
Exhibit 4	Earnings Statement	2 page

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 29 years old in July 2021. 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 Franklin County, MA during 2021. (Appellant's Testimony and Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2021 was \$41,214.00 as shown on Schedule HC for 2021. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during six (6) months of tax year 2021 according to Appeal Case Information from Schedule HC for 2021. (Exhibit 2).
5. The Appellant has been assessed a three (3)-month tax penalty for 2021, which they have appealed. (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$41,214.00, could afford to pay \$256.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 29 years, living in Franklin County could have purchased private market health insurance for \$277.00 per month. (Table 4, Schedule HC for 2021). Thus, private insurance was not affordable for the Appellant in 2021.
8. Employer-sponsored insurance (ESI) was available to Appellant during 2021 for six months of the year, January through June 2021. (Appellant's Testimony and Exhibit 2).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$41,214.00 was greater than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).
10. The Appellant had a job for the first six months of 2021, January through June. They had ESI during those months. (Appellant's Testimony and Exhibit 2).
11. Appellant lost their job during June 2021. They secured a new job at the end of July 2021. Their new employer had a three (3)-month probationary period before offering health insurance coverage. (Appellant's Testimony, which I credit.).
12. The new employer did not provide paperwork or other information about how to access health insurance. Therefore, Appellant did not become eligible for insurance until the beginning of 2022. (Appellant's Testimony, which I credit.).

13. Appellant's wages in their new job were \$2.50 per hour lower than in their prior job. Therefore, they did not believe they could afford ESI. Accordingly, they secured MCC-compliant private insurance, which they have currently. (Appellant's Testimony, which I credit.)
14. The Appellant's monthly living expenses of \$2,461.00 included: Rent - \$650.00, Heat - \$125.00, Electricity - \$125.00, Car insurance and payments - \$400.00, Telephone - \$100.00, Food - \$400.00, Gas - \$250.00, Internet - \$136.00 and Credit card debt - \$275.00. (Appellant's Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked a box on their Statement of Grounds for Appeal stating that during 2021 the expense of purchasing health insurance would have led to a deprivation of food and other living expenses. (Appellant's Testimony and Exhibit 3).

To determine if the three (3)-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 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

Employer-sponsored insurance (ESI) was available to Appellant during 2021 for six months of the year, January through June 2021. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2021 because their adjusted gross income of \$41,214.00 was greater than 300% of the Federal poverty level, which was \$38,280.00 in 2021 (Schedule HC, Table 2). (Exhibit 2).

The Appellant had a job for the first six months of 2021, January through June. They had ESI during those months. (Appellant's Testimony and Exhibit 2).

Appellant lost their job during June 2021. They secured a new job at the end of July 2021. Their new employer had a three (3)-month probationary period before offering health insurance coverage. (Appellant's Testimony).

The new employer did not provide paperwork or other information about how to access health insurance. Therefore, Appellant did not become eligible for insurance until the beginning of 2022. (Appellant's Testimony, which I credit.).

Appellant's wages in their new job were \$2.50 per hour lower than in their prior job. Therefore, they did not believe they could afford ESI. Accordingly, they secured MCC-compliant private insurance, which they have currently.

The Appellant's monthly living expenses of \$2,461.00 included: Rent - \$650.00, Heat - \$125.00, Electricity - \$125.00, Car insurance and payments - \$400.00, Telephone - \$100.00, Food - \$400.00, Gas - \$250.00, Internet - \$136.00 and Credit card debt - \$275.00. (Appellant's Testimony and Exhibit 3).

Appellant's AGI of \$41,214.00 obscures the fact that Appellant was unemployed for a period of time and their wages in their new job were reduced by \$2.50 per hour, thus complicating budget planning and causing Appellant stress. Their new employer had a three-month probationary period before offering health insurance. Because of confusion on the part of Appellant's new employer, they did not timely receive information after their three-month probationary period about securing health insurance. Thus, Appellant obtained MCC-compliant private insurance, which they have currently. Based on all the evidence and testimony in the record, I conclude based on the uncertain financial situation Appellant faced and the equities that Appellant has demonstrated that purchasing health insurance during 2021 would have caused them hardship. See 956 CMR 6.08 (3).

For all these reasons, the Appellant's three (3)-month penalty is waived.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

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

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

Tax Penalty Appeal Decision—Docket No. PA21-****

Appeal Decision: Appeal Approved ** -- 2021 tax penalty overturned. **

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 9, 2022

Decision Date: **, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2021 (** pages);
3. Appellant's Letter in Support of Appeal (1 page); and
4. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant ** appealed from the Department of Revenue's assessment of a ** month penalty for 2021. The basis for the penalty was that the Appellant ** was not insured ** at any time in 2021. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. ** (The calculation is 12 months minus ** months insured = ** months uninsured minus 3-month administrative grace period = ** penalty months.)
2. The Appellant ** filed a Massachusetts personal income tax return for 2021 as a ** married couple filing jointly with ** dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$ **. Exhibit 1.
3. The Appellant ** was ** years old at the beginning of 2021 and resided in [name of city or town omitted] in ** County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more** than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2021. DOR Table 1.
5. The Appellant's 2021 AGI (\$) was less** than 300% of the federal poverty level (\$38,280 ** for a one** person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would ** not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay ** % of ** his income -- or \$ per month -- for health insurance coverage in 2021. (The calculation is ** % multiplied by \$ ** AGI = \$ ** per year divided by 12 months = \$ ** per month.)
7. Based on DOR Table 4 (Region **) the Appellant could obtain ** individual health insurance coverage at ** his age and location for \$ ** per month in 2021.
8. **
9. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.

10. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a ** month tax penalty because ** the Appellant did not have health insurance coverage in 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

If these requirements are not met, a tax penalty is assessed for "each of the months" that the person did not have health insurance, as required by the individual mandate. Mass. Gen. Laws 111M, sec. 2(b). See Exhibit 1. There is, however, a three-

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

The Health Connector’s regulations also provide for a “hardship” appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, **

** After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him [her] ** to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

Number of Months Appealed: _____ Number of Months Assessed: _____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1937

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 18, 2022

Decision Date: August 30, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021 (4 pages); and
3. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a five month penalty for 2021. The basis for the penalty was that the Appellant was insured for the months of January – April (4 months) and was not insured for the months of May – December 2021 (8 months). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2021 was \$100,523. Exhibit 1.
3. The Appellant was 56 years old at the beginning of 2021 and resided in [name of city or town omitted] in Essex County, Massachusetts. Exhibit 1.
4. The Appellant was employed for 26 years by a national delivery business. Throughout her years of employment the Appellant had health insurance through her employer. Testimony.
5. The Appellant's adult son lived with the Appellant and was insured as a dependent on her employer's health plan since was less than 26 years old. Testimony. The son was not claimed as a dependent on the Appellant's 2021 state income tax return. Exhibit 1.
6. In April 2022 the Appellant was forced to retire from her job (along with other workers in her age group), which resulted in the loss of her health insurance (and her son's health insurance). Testimony. See also Exhibit 1 (not insured for May – December 2021).

7. The federal adjusted gross income (\$100,523) reported on the Appellant's 2021 income tax return does not present an accurate picture of her income because she received a substantial withdrawal from her pension plan when she was forced to retire. Testimony. In a normal year the Appellant estimates that her employment income would be approximately \$38,000 per year based on her hourly rate. Testimony.
8. The Appellant was offered COBRA coverage beginning in May 2022. She did not enroll due to the cost of COBRA. Testimony and Exhibit 1.
9. The Appellant applied for government-subsidized health insurance coverage (MassHealth or Health Connector), but her application was denied due to her income. Testimony. See also Exhibit 1.
10. The Appellant found it difficult to find a new job during the coronavirus pandemic (COVID-19). She found two part-time jobs – as a cashier and as a cook – but neither job offered her health insurance as a job benefit. Testimony.
11. The Appellant found a new full-time job shortly before the August 18, 2022, hearing on her tax penalty appeal. Her new job offers health insurance as a job benefit after a 90 day wait period, so the Appellant anticipates that she will be insured later this year. The Appellant's adult son will also be covered. Testimony.
12. At her age and location in 2021 the Appellant would have to pay \$401 per month for individual health insurance coverage. Coverage for her son would cost an additional \$271 per month. DOR Table 4 (Region 2).

13. The Appellant required extensive dental work after she lost her job in 2021 for which she had to pay out-of-pocket due to the loss of her health insurance. The Appellant has paid approximately \$5,000 for the dental work. Testimony.

14. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2021 Massachusetts income tax return.

15. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty because the Appellant lost her job and her health insurance coverage starting in May 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant was insured through her job for 26 years until she was forced to retire at the end of April 2022. The Appellant was unable to obtain replacement health insurance for the remainder of 2021 because she could not afford COBRA coverage, because her application for government-subsidized health insurance was denied (MassHealth or Health Connector), and because her two part-time replacement jobs – as a cook and as a cashier – did not offer health insurance benefits

during the coronavirus pandemic. The Appellant’s loss of her health insurance also meant that her adult son lost his coverage as her dependent.

The Appellant’s earned income from her employment in 2021 was less than it appears from the amount reported on the Appellant’s state income tax return. The reason is that the Appellant also received a distribution from her former employer’s pension plan when she was forced to retire from her job.

The Appellant obtained a new job that offers health insurance benefits in 2022. After the 90 day waiting period required by her new employer (or its insurer) both the Appellant and her son reasonably expect to be enrolled in health insurance in 2022. In the meantime the Appellant had to pay a substantial sum (approximately \$5,000) out-of-pocket for dental work while she was uninsured due to her job loss.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) ([The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA21-1938 (BE)

Appeal Decision: Appeal Approved -- 2021 tax penalty overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 18, 2022

Decision Date: August 30, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2021 (5 pages);
3. IRS Form 1095-C (2021) (2 pages); and
3. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 5 month penalty for 2021. The basis for the penalty was that the Appellant was insured for the months of January, February and March (3 months), was not insured for the months April – November (8 months), and was insured again for the month of December 2021 (1 month). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 4 months insured = 8 months uninsured minus 3-month administrative grace period = 5 penalty months.)
2. The Appellant asserted the final ground ("other") on the pre-printed appeal form as the reason for his appeal. Exhibit 2, page 2.
3. The Appellant filed a Massachusetts personal income tax return for 2021 as a single person with no dependents who lived in [name of city or town omitted] in Middlesex County. The Appellant's federal adjusted gross income (AGI) for 2021 was \$49,287. Exhibit 1.
4. The Appellant reached his 26th birthdate at the end of March 2021. Exhibit 1 (D.O.B.) and Testimony.
5. For the months of January, February, and March -- prior to his 26th birthday -- the Appellant was insured under his Mother's health insurance plan. Testimony and Exhibit 1. See also Exhibit 3, line 14 (no insurance offered by employer for January – May and December).
6. The Appellant shifted his health insurance coverage to his employer, with coverage starting in April (after his 26th birthday). Testimony. See Exhibit 3, line 14 (employer reported that it offered coverage for months of June – November).
7. Within two months after the Appellant shifted his health insurance coverage to his employer the Appellant sought medical treatment. The medical office informed him that it did not have a record of his insurance coverage. The Appellant made an effort with his employer to correct the record of his medical insurance coverage. Testimony. (The Appellant asserted that he obtained a temporary health insurance plan through the Health Connector as a part of his effort to be insured. The Health Connector did not submit any documents into the hearing record, and I will not pursue this issue further.)

8. In October 2021 the Appellant sought medical treatment for a blow to his head, believing that he had a concussion. The medical office again informed the Appellant that its records did not show that he had health insurance. Due to the cost and the lack of insurance coverage, the Appellant did not have a CAT scan or other professional medical treatment for his concussion. The Appellant sought to administer self-treatment based on his reading of health information that he obtained online. Testimony.
9. The Appellant responded to the second reported gap in his employer-sponsored health insurance by looking for a new job. Testimony (referring to a “complete disconnect” between himself and his employer that was likely aggravated by the employer’s human services staff working at home due to COVID-19).
10. In late 2021 the Appellant shifted to a new full-time employer that offered him health insurance as a job benefit. His coverage became effective in December 2021, as reported in Exhibit 1. See also Exhibit 3, line 14.
11. At the end of 2021 – after he moved to his new employer -- the Appellant received a form of equity plan payout from his original employer. This raises a question whether (and how much) the federal adjusted gross income (\$49,287) reported on Exhibit 1 accurately reflects the Appellant’s wages for 2021.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2021 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty

level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2021.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 5 month tax penalty because the Appellant did not have health insurance coverage for the months of April through November 2021. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a

hardship appeal are summarized in the Statement of Grounds for Appeal – 2021 that the Appellant signed and filed in this case. See Exhibit 2.

The evidence presented in this appeal demonstrates the Appellant’s efforts to obtain and maintain health insurance coverage for all of 2021.

At the beginning of the year that Appellant continued to be insured for the months of January, February, and March as a dependent on his mother’s health plan. The Appellant understood that, by law, he could not remain on his mother’s insurance policy after his 26th birthday so he sought to enroll in his employer’s health plan starting in April 2021.

On two occasions after the Appellant sought to enroll in the health plan that his employer offered as a job benefit the Appellant learned from his medical provider that it had no record of health insurance coverage for him. On each occasion the Appellant sought, unsuccessfully as it turned out, to have his employer address the coverage issue. The second occasion was more serious, as the Appellant did not get medical treatment for a likely concussion.

The concussion incident motivated the Appellant to seek new employment. In late 2021 the Appellant got a new job that offered health insurance as a job benefit. He enrolled in his new employer’s health plan with coverage starting in December, as reflected in Exhibit 1.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2021. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e).

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1947

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 16, 2022

Decision Date: August 29, 2022

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 16, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

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 26-years-old, is single, and does not have children. (Testimony, Ex. 2)
2. The appellant was employed from January through the end of February, 2021, when she left her job. She had employer provided health insurance during that time frame. (Testimony, Exs, 1.2)
3. From March through August, the appellant travelled back and forth from Massachusetts to California where her parents lived. She moved to Chicago at the end of August and lived there for the rest of the year. (Testimony, Ex. 1)
4. The appellant did not investigate health insurance options in Massachusetts after she left her job. She was unsure of her plans and had mental health issues which affected her ability to pursue insurance matters. (Testimony, Ex. 1)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant indicated on her 2021 Schedule HC that she was a part-year resident of Massachusetts from January through September 9, 2021. (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 her during 2021 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she traveled to California for treatment of depression and did not have the emotional bandwidth to enroll in health insurance after becoming unemployed.

The appellant had health insurance for the months of January and February, 2021, and indicated on her Schedule HC that she was a part-year resident of Massachusetts from January until September 9, 2021. 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Based on the information in her Schedule HC regarding her part-year residence, the appellant was assessed and is appealing a penalty of five months (i.e., the eight months she resided in the state after she lost her health insurance less the gap period of three months.)

The appellant testified credibly that she was employed in January and February, after which she left her job. She testified that she traveled back and forth to California through August, and moved to Chicago at the end of the month for the remainder of the year. She testified that she did not investigate health insurance options after she became unemployed because she was unsure of her plans and had mental health issues which impacted her ability to pursue insurance matters.

With respect to the appellant’s residence in the state, she testified that she left Massachusetts at the end of August, but indicated on her Schedule HC that she did not leave until September 9, 2021. The instructions on the 2021 Schedule HC (page HC-2) set forth the following relevant information for part-year residents: “If you moved out of Massachusetts during 2021, the requirement to obtain and maintain health insurance applies to you up until the last day of the last full month you were a resident.” Accordingly, the mandate applies to the appellant up until the end of August since she moved out on September 9th.

With regard to the months of March through August when the appellant was uninsured, she offered substantial and credible evidence which established that she was suffering with mental health issues during that time frame and was unable to focus on health insurance matters. She further testified that she was unsure of her plans after she left her job and spent significant amounts of time in California seeking treatment for depression.

Based on the totality of the evidence, it is concluded that the appellant should not be subject to a penalty based on her compelling testimony regarding her frame of mind and situation during the time frame in question. Her request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1820

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 24, 2022

Decision Date: August 10, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant husband appeared at the hearing which was held by telephone on June 24, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

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

Ex. 4—2021 Employer Health Insurance Form

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant husband is 61-years-old and the appellant wife is 63-years-old. They did not have health insurance in 2021. They resided in Essex County in 2021. (Testimony, Ex. 2)
2. The appellants have not had health insurance for many years. They were assessed a penalty for not having insurance once in the early 2000s, but have not been subject to a penalty since then. (Testimony)
3. The appellant husband has been employed on a seasonal basis for many years. Every year, he gets laid off for approximately three months between December and March during which time he receives

¹ Ex. 2 is a computer printout that extracts information submitted by the appellants on Schedule HC as part of their 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

unemployment compensation. He has typically applied for health insurance through the Health Connector during this time period, and has either been advised that his income is too high to qualify for subsidies or is back at work by the time he receives an eligibility determination. The appellant wife has not been employed for many years. (Testimony)

4. The appellant husband has worked for the same employer for several years. The employer offers health insurance but he has never enrolled because he did not feel that the cost was affordable. In 2021, the appellant's share of the premium for the lowest cost plan offered that met MCC standards was \$239.18/week or \$956.72/month. (Testimony, Ex. 4)
5. The appellant husband investigated health insurance options through the Health Connector and determined that the cost was almost the same as employer health insurance which was unaffordable. (Testimony)
6. The appellants are not enrolled in health insurance in 2022. (Testimony)
7. The appellants reported an adjusted gross income of \$97,419.00 on their jointly filed 2021 federal tax return, and reported that they were married with no dependents. (Ex. 2)
8. In 2021, the appellants had regular monthly expenses of approximately \$3338.00 for their mortgage which included real estate taxes (\$1400.00), homeowner's insurance (\$63.00), heat (\$175.00), electricity (\$175.00), water and sewer service (\$42.00), cell phones (\$170.00), cable and internet service (\$190.00), automobile insurance for two vehicles (\$143.00), gasoline (\$180.00) and food (\$800.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2021](http://www.mass.gov/dor/docs/dor/health-care/2021), and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2021 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 appellants submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to them because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.² 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 2021, 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 appellants were uninsured for the entire year, they were assessed and are appealing a penalty of twelve months each.

² The appellants attached two letters from MassHealth dated February 22, 2022, advising them that they did not qualify for insurance through MassHealth because their income was too high. Inasmuch as the appeal is for the 2021 tax year, the letters have no relevance.

The appellant husband testified credibly that he and his wife have not had health insurance for many years and have only paid a penalty once for being uninsured. He testified that he has worked for the same employer for many years and has never enrolled in employer health insurance because the cost was unaffordable. He testified that he is a seasonal employee and gets laid off every year for three months between December and March. Finally, he testified that he typically applies for health insurance through the Health Connector during his layoff, and either cannot afford the cost or is back to work by the time an eligibility determination is issued.

The first issue to consider is whether the appellant husband had access to affordable employer health insurance. The appellant submitted employer insurance information which indicated that the cost of an individual plan in 2021 was approximately \$957.00 per month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2021 is considered to be affordable if the employee's contribution for an individual plan is 9.83 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was approximately \$957.00. That cost is more than 9.83 percent of the appellant's projected household MAGI for 2021 (i.e., 9.83 percent of \$97,419.00 is \$9576.00 or \$798.02/month).³ Hence, since the employer coverage is more than \$798.02/month, the appellant is not considered to have had access to qualifying health insurance, and would not have been blocked from eligibility for an APTC or ConnectorCare. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

The next issue to consider is whether the appellants had access to affordable private health insurance. The evidence provided by the appellants established that their income for 2021, \$97,419.00, was greater than 300% of the federal poverty level (FPL), which for 2021 was \$51,720.00 for a two-person family. Table 3 of the Affordability Schedule indicates that a married couple filing jointly with no dependents with a federal adjusted gross income greater than \$68,961.00 is deemed to be able to afford a monthly premium of \$649.46 (8.00% of \$97,419.00/12). Table 4 of the Premium Schedule indicates that a 62-year-old individual (the age of the older of the two appellants in 2021) in Essex County (where the appellants resided in 2021) could have purchased private health insurance for \$802.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellants could not have purchased affordable private health insurance in 2021.

Based on the totality of the evidence, it is concluded that 1) the appellants would not have been eligible for subsidized insurance because their income exceeded 300% of the federal poverty level; ⁴ 2) employer health

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

⁴ As a result of the federal American Rescue Plan (ARP), for plan years 2021 and 2022 only, there is no upper income limit to be eligible to receive APTCs. Any individual who purchases coverage through the Health Connector may receive APTCs, even

insurance was not affordable; and 3) they could not have purchased affordable insurance on the private market. Accordingly, their request for a waiver from the penalty is **granted** for the months for which they were assessed. The determination that the appellants are eligible for a waiver is with respect to 2021 only, and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: (husband) 12 Number of Months Assessed: (husband) 0
Number of Months Appealed: (wife) 12 Number of Months Assessed: (wife) 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellants are advised to investigate their eligibility for APTCs under the ARP for the remainder of 2022 either through **mahealthconnector.org** or by contacting customer service at 1-877-623-6765 for assistance. They are further advised that the program may be extended into 2023 and beyond.

if their income is greater than 400% of the FPL, so long as the annual premium for the second lowest cost silver plan for their household exceeds 8.5 percent of their annual household income and they meet other non-income criteria to receive APTCs. The appellant husband testified that he investigated health insurance through the Health Connector and determined that the cost was unaffordable. It is possible that the appellants may have qualified for APTCs under this new provision of the ARP, and it is not known whether they undertook an analysis to determine their eligibility.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1878

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 19, 2022

Decision Date: August 24, 2022

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 19, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (6-8-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-15-22) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 44 during 2021, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for September through December of 2021, but it did not meet minimum creditable coverage, and Appellant did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$72,330.00 (Exhibit 2).
4. Appellant had health insurance through the employer that did not meet minimum creditable coverage. (Appellant's testimony, Exhibit 3).
5. Appellant was unemployed for the beginning of the year, and took retirement money out to help pay expenses. (Testimony).

6. In addition, Appellant's expenses for food, clothing, shelter, and transportation and other necessities used a significant amount of the income. The expenses were approximately \$4,000.00 per month or \$48,000.00 per year. (Appellant Testimony).
7. Appellant had full coverage as of May 2022 and continues to have coverage that meets the requirements for Massachusetts. (Appellant Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$294.00 for coverage. According to Table 3, Appellant was deemed to afford \$482.00.
10. Private insurance was affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
12. Appellant claimed that they should be granted a waiver based on the grounds that they had purchased insurance through the employer that did not meet minimum creditable coverage and paying for health insurance would have caused a serious deprivation of food, shelter, clothing, transportation and other necessities. (Testimony of Appellant, Exhibit 3). Appellant was able to obtain coverage that did meet minimum creditable coverage as of May 2022 when Appellant became a full-time employee.
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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 September through December 2021, but it did not meet minimum creditable coverage, and did not have any insurance for the remaining months of 2021. 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$72,330.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$482.00 per month; according to Table 4, Appellant, who was 44 years old in 2021, from Suffolk County, and filed the 2021 Massachusetts taxes as single with a family size of 1, would have had to pay \$294.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had purchased insurance through the employer that they did not meet minimum creditable coverage, and paying for health insurance would have caused a serious deprivation of food, shelter, clothing, transportation and other necessities. As of May 2022, when Appellant became full-time the health insurance did meet MCC and Appellant continues to have that insurance. In addition, Appellant's expenses for food, shelter, clothing and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA21-1880

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 19, 2022

Decision Date: August 24, 2022

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 19, 2022. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (6-8-22) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2021 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (3-5-22) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 37 during 2021, from Hampden County, filed head of household on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did have health insurance for January through July and for December of 2021, and Appellant did not have health insurance for the remaining months of 2021. (Appellant's testimony, Exhibits 2, 3).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$34,695.00 (Exhibit 2).
4. Appellant had health insurance through the employer for the first seven months. Appellant then had a new job that had a 90-day waiting period before qualifying for health insurance. (Appellant's testimony, Exhibit 3).

5. In addition, Appellant's expenses for food, clothing, shelter, and transportation and other necessities used a significant amount of the income. The expenses were approximately \$2,000.00 per month or \$24,000.00 per year. (Appellant Testimony).
6. Appellant coverage for January through July, and then as of December of 2021 and continues to have coverage. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$738.00 for coverage. According to Table 3, Appellant was deemed to afford \$98.00.
9. Private insurance was not affordable for the Appellant in 2021. (Schedule HC for 2021).
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 2021).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, transportation 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 or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2021 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 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 through July and for December 2021, and did not have any insurance for the remaining months of 2021. They have been assessed a tax penalty for two 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 2021. According to Tables 3 and 4 of the HC Schedule for 2021, Appellant, with an adjusted gross income of \$34,695.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$98.00 per month; according to Table 4, Appellant, who was 37 years old in 2021, from Hampden County, and filed the 2021 Massachusetts taxes as head of household with a family size of 2, would have had to pay \$738.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing, transportation and other necessities. As of December 2021, Appellant had health insurance again through an employer and Appellant continues to have that insurance. In addition, Appellant's expenses for food, shelter, clothing and other necessities used a significant amount of the income. For these reasons, the waiver of the penalty is approved.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA21-1868

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 15, 2022

Decision Date: August 23, 2022

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 15, 2022. 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 6, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated March 14, 2022
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-four years old and is single with one dependent. She lives in Bristol County, Massachusetts. Appellant works part-time in a restaurant.
2. Appellant stated that she had MassHealth and sent in documentation of proof of same with her MassHealth cards.
3. Appellant does have Masshealth insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 but did not put down a grounds for appeal but should have put . "Other. During 2021 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable:" .I will hear her appeal under this ground.
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.

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 stated that she had MassHealth and sent in documentation of proof of same with her MassHealth cards.

The Appellant did submit a Statement of Grounds for Appeal-2021 but did not put down a grounds for appeal but should have put . "Other. During 2021 other circumstance, such as: applying the Affordability Tables in Schedule HC to you is inequitable:" I will hear her appeal under this ground.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents

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 and her daughter had MassHealth and therefore are exempt from any penalty. On these facts, I find that Appellant has shown that she had health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **ALLOWED**, and the 2021 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1788

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 15, 2022

Decision Date: August 3, 2022

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 on June 15, 2022. The Appellant offered testimony under oath or affirmation. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/10/22 Appeal (7 pages)
- Exhibit 3: 5/6/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Head of Household with one dependent. The Appellant's federal AGI in 2021 was \$37,755. The Appellant resided in Plymouth County and turned twenty-six years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against her on her 2021 income tax return, checking off on her appeal form as the bases for her appeal that "purchasing health insurance coverage would have caused her a serious deprivation of basic necessities," and that she experienced a significant, unexpected increase in essential expenses in 2021. (Appellant's testimony; Exhibit 2)
3. The Appellant worked full time as a PCA for her severely autistic brother at the start of 2021, but her hours were later reduced due to the pandemic. (Appellant's testimony; Exhibit 2)
4. The Appellant is a single mother who, along with her infant son, was severely attacked by her ex-boyfriend (her son's father) in 2017. (Exhibit 2)
5. Since this attack, the Appellant has taken on significant debt from hospital, ambulance, and therapy expenses for services she and her son needed (and continue to need) as a result of the 2017 attack. (Appellant's testimony)

6. The Appellant’s mother has been sick for several years with what they believe may be cancer, but her mother has refused to seek medical attention. (Appellant’s testimony; Exhibit 2)
7. As her mother and her autistic brother had limited income in 2021, the Appellant regularly paid a significant portion of their basic monthly necessities. (Appellant’s testimony)
8. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance as her 2021 income was less than \$51,720 for a family size of two.
9. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$195 for health insurance coverage in 2021.
10. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to the Appellant for a monthly premium of \$263.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

I am persuaded by the Appellant’s testimony that she was still recovering financially in 2021 from the devastating 2017 attack on the Appellant and her infant son by her boyfriend at the time. In addition, the Appellant was dealing with her mother’s declining health and providing financial support to meet her needs, as well as the needs of her autistic brother. In effect, to some extent, the Appellant was supporting a family of four, rather than two, in 2021. In light of these circumstances, I conclude that health insurance coverage was not affordable for the Appellant in 2021, under 956 CMR 6.8(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1792

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 15, 2022

Decision Date: August 3, 2022

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 and her authorized representative appeared at the hearing, which was held by telephone, on June 15, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until July 15, 2022, for the Appellant to submit additional documentary evidence. The Appellant submitted additional evidence and the record was closed on June 29, 2022. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 6/8/22 Authorized Rep Form (8 pages)
- Exhibit 3: 3/16/22 Appeal (26 pages)
- Exhibit 4: 5/6/22 Hearing Notice (2 pages)
- Exhibit 5: 6/15/22 Open-Record Request for additional documentary evidence (1 page)
- Exhibit 6: 6/23/22 Open-Record Materials (12 pages)
- Exhibit 7: 6/29/22 Additional Open-Record Materials (18 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$34,100. The Appellant turned twenty-five years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against her on her 2021 income tax return, checking off on her appeal form as the basis for his appeal that "purchasing health insurance coverage would have caused her a serious deprivation of basic necessities." (Exhibit 2)
3. The Appellant last had health insurance coverage, prior to 2021, through her employer, but lost her job and coverage during 2020. (Appellant's testimony)

4. The Appellant worked for a temp agency at the start of 2021, until the agency informed her in April that she was being laid off and that the agency was shutting down until June 2021. (Appellant’s testimony)
5. The Appellant started a new full-time job in late July 2021, her employer offered health insurance coverage after three months of employment, and the Appellant enrolled in her employer’s coverage as soon as she was eligible to do so. (Appellant’s testimony; Exhibit 2)
6. The Appellant had health insurance coverage through her new employer in November and December 2021. (Appellant’s testimony; Exhibit 7)
7. Over \$28,000 of the Appellant’s income in 2021 came from her new employer. (Appellant’s testimony; Exhibit 6)
8. The Appellant’s 2021 monthly expenses for basic necessities included: rent, \$600; food, \$240; utilities, \$150; phone/Internet, \$130; auto/gas/insurance, \$210; laundry, \$160; clothing, \$50; and, hygiene products, \$100, for a total of \$1,640/monthly, and \$19,680 for the year. (Exhibit 6)
9. Another 2021 basic expense for the Appellant were car payments made over the course of the whole year, for a total of \$4,650. (Exhibit 6)
10. In January 2021, the Appellant made a final payment of \$604 for a surgical procedure performed on the Appellant on December 2, 2020. (Exhibit 7)
11. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance coverage as her 2021 income was less than \$38,280 for a family size of one.
12. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$142 for health insurance coverage in 2021.
13. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to the Appellant for a monthly premium of \$268.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant has presented compelling evidence that she could not have afforded health insurance coverage in 2021, until she found a new job in late July 2021 that offered health insurance coverage after three months of employment. The Appellant enrolled in her employer’s coverage as soon as she could, and the coverage was effective during the last two months of 2021. Over 80% of the Appellant’s 2021 income came over the last six months of 2021 from this new job. This meant that the Appellant had monthly income of less than \$700 during the first six months of 2021, when she had monthly expenses of over \$1,600 for basic necessities. Clearly, under these circumstances, the expense of purchasing health insurance would have caused a serious deprivation of basic necessities for the Appellant. Under these circumstances, I conclude that health insurance coverage that met MCC standards was not affordable for the Appellant in 2021, under 956 CMR 6.8(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1793

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 15, 2022

Decision Date: August 29, 2022

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 15, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until July 14, 2022, for the Appellant to submit additional documentary evidence. The Appellant did not submit any additional documentary evidence, and the record was closed on July 14, 2022. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/7/22 Appeal (9 pages)
- Exhibit 3: 5/17/22 Hearing Notice (2 pages)
- Exhibit 4: 6/15/22 Open-Record Request for additional documentary evidence (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$48,185. The Appellant turned twenty-eight years old in 2021. The Appellant resided in Middlesex County in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against her on her 2021 income tax return, checking off on her appeal form as the basis for his appeal that "purchasing health insurance coverage would have caused her a serious deprivation of basic necessities." (Exhibit 2)
3. The Appellant's 2021 monthly expenses for basic necessities included: rent/heat/hw, \$1,500; Internet, \$85; and, electricity, \$93, for a total of \$1,678/monthly and \$20,136 for the year. (Exhibit 6)
4. The Appellant also had a one-time expense of \$976 for health services in April 2021. (Appellant's testimony)

5. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance coverage in 2021 as her 2021 income was more than \$38,280 for a family size of one.
6. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$305 for health insurance coverage in 2021.
7. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to the Appellant for a monthly premium of \$263.
8. Whether or not she could have afforded to pay \$263/monthly for health insurance coverage in 2021, the Appellant felt that it was not worth it for her to spend this much for health insurance coverage. (Appellant’s testimony)

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

As the Appellant did not provide any additional evidence in response to the 6/15/22 open-record request, I rely solely on the testimony and documentary evidence offered at hearing by the Appellant.

The Appellant contends that purchasing health insurance coverage in 2021 would have caused her a serious deprivation of basic necessities. However, the Appellant has offered insufficient evidence to support her contention. To the contrary, the Appellant’s expenses for basic necessities in 2021 were less than half of her 2021 AGI of \$48,185. The Appellant could well have afforded to pay \$263/monthly, and \$3,156 for the year, for the health insurance coverage that was available to her in the private market in 2021. Therefore, I conclude that the Appellant has not established that she could not have afforded health insurance coverage in 2021.

Accordingly, the Appellant’s twelve-month penalty for 2021 shall not be waived or reduced.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1830

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2022

Decision Date: August 8, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant/husband appeared at the hearing which was held on July 6, 2022. The Appellant offered testimony under oath or affirmation. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/11/22 Appeal (5 pages)
- Exhibit 3: 6/3/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2021 was Married Filing Jointly with two dependents. The Appellants' federal AGI in 2021 was \$61,492. The Appellants resided in Bristol County and turned twenty-six years old and forty years old in 2021. (Exhibit 1)
2. The Appellants appeal from the assessment of two twelve-month penalties against them on their 2021 income tax return, checking off on their appeal form as the basis for their appeal that "purchasing health insurance coverage would have caused them a serious deprivation of basic necessities." (Appellant's testimony; Exhibit 2)
3. The Appellants' children turned age two and age six in 2021. (Appellant's testimony)
4. The Appellant' 2021 basic monthly expenses included: food/groceries, \$1,500; rent, \$1,400; gas/electricity, \$200; cable/Internet, \$150; leased van, \$400; gas, \$450; maint/repair, \$167; clothing, \$300; phone, \$40; and, \$300, minimum credit card payment, for a total of \$4,907/monthly and \$58,884 for the year. (Appellant's testimony)
5. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellants qualified for government-subsidized health insurance as their 2021 income was less than \$78,600 for a family size of four.

6. According to Table 3, Affordability, the Appellants could have afforded to pay a monthly premium of up to \$302 for health insurance coverage in 2021.
7. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to the Appellants for a monthly premium of \$779.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

While health insurance coverage that met MCC standards in 2021 was available to the Appellants for a monthly premium as low as \$302, the Appellants have provided credible evidence that they could not have afforded to pay \$302/monthly for coverage in 2021. The Appellants’ monthly cost of \$4,907 for basic expenses in 2021 left the Appellants with just \$217/monthly to pay for health insurance coverage in 2021. Under these circumstances, I conclude that health insurance coverage that met MCC standard was not affordable for the Appellants in 2021, under 956 CMR 6.8(1)(e).

Accordingly, the Appellants’ two twelve-month penalties for 2021 shall be waived in full.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1831

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2022

Decision Date: August 8, 2022

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 on July 6, 2022. The Appellant offered testimony under oath or affirmation. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/14/22 Appeal (7 pages)
- Exhibit 3: 6/3/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$20,1241. The Appellant resided in Barnstable County and turned twenty-three years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against him on his 2021 income tax return, checking off on his appeal form as the bases for his appeal that "the expense of purchasing health insurance coverage would have caused a serious deprivation of basic necessities;" and, that "during 2021, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you." (Appellant's testimony; Exhibit 2)
3. The Appellant worked for an apparel department store beginning in early 2021, making \$15/hour. (Appellant's testimony)
4. The Appellant became eligible for his employer's health insurance coverage after three months of employment, but the Appellant declined the coverage because he could not afford the monthly premium of \$300. (Appellant's testimony)

5. The Appellant’s monthly expenses for basic necessities in 2021 included: \$750, rent; \$100, cell phone; car insurance, \$200; car payment, \$360; gas, \$240; and, food, \$200, for a total of \$1,850/monthly and \$22,200 for the year. (Appellant’s testimony)
6. The Appellant’s car was totaled in September 2021 and, as he was behind in payments for the car and for car insurance, he was unable to collect from his insurance company. (Appellant’s testimony)
7. The Appellant contracted COVID twice during 2021—in late September and again at the end of December.
8. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance as his 2021 income was less than \$38,280 for a family size of one.
9. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$48 for health insurance coverage in 2021.
10. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to the Appellant for a monthly premium of \$263.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

While health insurance coverage that met MCC standards was available to the Appellant in 2021 for a monthly premium as low as \$48, the Appellant has provided credible evidence that he could not have afforded to pay \$48/monthly for coverage in 2021. The Appellant’s monthly cost of \$1,850 for basic expenses in 2021 left the Appellant with virtually nothing left to pay for health insurance coverage in 2021. Under these circumstances, I conclude that health insurance coverage that met MCC standard was not affordable for the Appellant in 2021, under 956 CMR 6.8(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1833

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2022

Decision Date: August 26, 2022

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 on July 6, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until August 5, 2022, for the Appellant to submit additional evidence. The appellant submitted additional evidence on August 1, 2022, and the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/14/22 Appeal (5 pages)
- Exhibit 3: 6/3/22 Hearing Notice (2 pages)
- Exhibit 4: 7/6/22 Open Record Request (1 page)
- Exhibit 5: 7/29/22 Open Record Response (8 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellants' federal AGI in 2021 was \$29,520. The Appellants resided in Essex County and turned fifty-seven years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against him on his 2021 income tax return, checking off on the appeal form as the basis for his appeal that "purchasing health insurance coverage would have caused him a serious deprivation of basic necessities." (Appellant's testimony; Exhibit 2)
3. The Appellant was unemployed throughout 2021 and his only income came from unemployment benefits. (Appellant's testimony)
4. The Appellant's 2021 basic monthly expenses included: rent, \$1,095; utilities, \$120; food, \$1,000; car payment, gas, insurance, registration, \$225; and, phone, \$150, for a total of \$2,590/monthly and \$31,080 for the year. (Appellant's testimony; Exhibit 5)

5. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant qualified for government-subsidized health insurance as his 2021 income was less than \$38,380 for a family size of one.
6. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$103 for health insurance coverage in 2021.
7. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to the Appellant for a monthly premium of \$425.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

While health insurance coverage in 2021 that met MCC standards was available to the Appellant for a monthly premium as low as \$103, the Appellant has provided credible evidence that he could not have afforded to pay \$103/monthly for coverage in 2021. The Appellant’s monthly cost of \$2,590 for basic expenses in 2021 left the Appellant with virtually no money to pay for health insurance coverage in 2021. Under these circumstances, I conclude that health insurance coverage that met MCC standards was not affordable for the Appellant in 2021, under 956 CMR 6.8(1)(e).

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1834

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2022

Decision Date: August 31, 2022

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 on July 6, 2022. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until August 5, 2022, for the Appellant to submit additional evidence. The appellant submitted additional evidence on July 27, 2022, and the record was closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/15/22 Appeal (7 pages)
- Exhibit 3: 6/3/22 Hearing Notice (2 pages)
- Exhibit 4: 7/6/22 Open Record Request (1 page)
- Exhibit 5: 7/29/22 Open Record Response (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$50,429. The Appellants resided in Plymouth County and turned sixty-two years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a four-month penalty against her on her 2021 income tax return, checking off on the appeal form "Other," as the basis for her appeal. (Appellant's testimony; Exhibit 2)
3. The Appellant was employed during the first four months of 2021, until she took early retirement at the end of April 2021.
4. The Appellant had health insurance coverage through her employer from January 2021 through May 2021. (Exhibit 1; Appellant's testimony)

5. The Appellant could not afford the \$829 monthly premium for the COBRA coverage offered by her employer. (Appellant’s testimony)
6. At the beginning of May 2021, the Appellant contacted MassHealth and enrolled in coverage for the rest of 2021, beginning June 1, 2021. (Appellant’s testimony; Exhibit 5)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant has presented substantial and convincing evidence that she had health insurance coverage that met MCC standards throughout 2021—first through her employer and then, in retirement, through MassHealth.

Accordingly, the Appellant’s four-month penalty for 2021 shall be waived in full.

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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1835

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 6, 2022

Decision Date: August 8, 2022

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 6, 2022. The Appellants offered testimony under oath or affirmation. At the end of the hearing, the record was left closed. The hearing record consists of the testimony of the Appellant and the following documents which were admitted into evidence:

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 3/15/22 Appeal (7 pages)
- Exhibit 3: 6/3/22 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Head of Household with one dependent. The Appellant's federal AGI in 2021 was \$78,651. The Appellant resided in Middlesex County in 2021. The Appellant turned forty-four years old in 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a twelve-month penalty against him on his 2021 income tax return, checking off on his appeal form as the basis for his appeal that "purchasing health insurance coverage would have caused him a serious deprivation of basic necessities." (Appellant's testimony; Exhibit 2)
3. The Appellant's 2021 monthly expenses for basic necessities included: mortgage, \$1,600; cable/wifi, \$140; electricity, \$100; gas, \$100; water, \$40; sewer, \$40; phones, \$195; car insurance, \$160; gas/fuel, \$520; maint/repair, \$375; food/groceries, \$433; clothing, \$433; child support, \$1,300; alarm system, \$26; credit card minimum payment, \$150;
4. (Appellant's testimony)
5. According to Table 2 of the 2021 Massachusetts Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2021 as his 2021 income was more than \$51,720 for a family size of one.

6. According to Table 3, Affordability, the Appellant could have afforded to pay a monthly premium of up to \$524 for health insurance coverage in 2021.
7. According to Table 4, Premiums, health insurance coverage in the private market in 2021 was available to him for a monthly premium of \$736.

ANALYSIS AND CONCLUSIONS OF LAW

M.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.

As the Appellant did not move to Massachusetts until January 2021, the individual mandate did not apply to him until April 1, 2021. At issue here are the nine months from April 2021 through December 2021, when the Appellant failed to have health insurance coverage.

I find credible the Appellant’s testimony that he spent a very significant portion of his income in 2021 to purchase the insulin and testing supplies that he regularly required to treat his diabetic condition. This monthly outlay of \$1,641 left the Appellant with just over \$600/monthly to pay for basic necessities, based on his federal AGI of \$27,280. While the Appellant qualified for government-subsidized health insurance coverage in 2021 for a monthly premium of \$95, the Appellant could not have afforded to pay this much for coverage in 2021.

Accordingly, the Appellant’s twelve-month penalty for 2021 shall be waived in full.

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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1852

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 11, 2022
Decision Date: August 25, 2022

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 11, 2022. Appellant also appeared for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The record was left open so that Appellant could submit additional documents. Appellant submitted documents and they have been marked as Exhibit 4.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 9, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 3, 2022
- Exhibit 4: Documents about insurance coverage

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 63 and 62 years old in 2021 and resided in Essex County (Exhibit 1).
2. Appellants filed a Massachusetts 2021 tax return as married filing jointly with no dependents claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2021 of \$85,821 (Exhibit 1).
4. In 2021 Appellant had been laid off and was unemployed and Appellant Spouse had several jobs (Testimony of Appellant).
5. Appellant Spouse had employer sponsored health insurance from January through July 2021, until the employer closed (Exhibit 4 and Testimony of Appellant).
6. Appellant Spouse started a new job and began employer sponsored health insurance after a waiting period for new employees (Exhibit 4 and Testimony of Appellant).
7. Appellants struggled to pay for basic necessities in 2021 (Testimony of Appellant).
8. Appellants fell behind in utility bills and received shut-off notices (Exhibit 2 and Testimony of Appellant).

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

10. According to Table 3 of Schedule HC for 2021 a couple filing as married filing jointly with no dependents with an adjusted gross income of \$85,821 could afford to pay \$572 per month for private insurance. According to Table 4, Appellants, who were 62 and 63 and lived in Essex County could have purchased private insurance for a cost of \$802 per month.

11. Private insurance was not considered affordable for Appellants in 2021 (Schedule HC for 2021).

12. Appellants, earning more than \$51,720 would not have been income eligible for government subsidized health insurance (Schedule HC for 2021).

13. Appellant Spouse has been assessed a penalty for twelve months for 2021. Appellant has not been assessed a penalty (Exhibit 1).

14. Appellants filed a hardship Appeal on March 9, 2022 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2021, 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 Spouse has been assessed a tax penalty for twelve months and Appellant has not been assessed a penalty. Appellant Spouse was covered by employer sponsored health insurance for part of the year. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellants, before we consider whether Appellants suffered a financial hardship. See 956 CMR 6.

Appellants were not income eligible for subsidized health insurance. Additionally, private health insurance was not considered affordable for Appellants. See Schedule HC for 2021, Exhibits 1, 2, 4 and Testimony of Appellants, which I find to be credible.

I find the penalty assessed against Appellants for 2021 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 0/12

Number of Months Assessed: 0/0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1854

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 13, 2022

Decision Date: August 26, 2022

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 13, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

The record was held open at the conclusion of the hearing for documentation requested by the hearing officer. The appellant requested an extension of the deadline for submission which was granted. The documentation was subsequently submitted in a timely manner and was marked as follows:

- Ex. 4—2021 Form 1099-HC
- Ex. 5—2021 Form 1095-B

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 41-years-old, is single, and does not have children. (Testimony, Ex. 2)
2. The appellant was employed from January through June, 2021, at which time she was laid off from her position. She had employer provided health insurance during that time frame. She continued her insurance through COBRA until the end of September when she terminated it because she could no longer afford it. (Testimony, Exs. 1, 4,5)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

3. The appellant enrolled in subsidized health insurance through the Health Connector for the month of December. (Testimony, Exs. 1,4,5)
4. According to a 2021 Form 1099-HC, the appellant had full-year minimum creditable coverage (MCC) insurance from January through December provided by Tufts Health Insurance. According to a 2021 Form 1095-B, the appellant had MCC insurance from January through September through a Nevada-based employer and provided by Tufts Health Insurance. (Exs. 4,5)
5. The appellant prepared her 2021 tax returns with a new software program. She mistakenly indicated on her 2021 Schedule HC that she did not have health insurance for any part of the year and was assessed a penalty of twelve months. (Testimony, Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her during 2021 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she was employed from January through June, 2021, when she was laid off, and continued her health insurance through COBRA with Premium Assistance until the end of September. As part of the Open Record Request, the appellant submitted a Form 1099-HC showing full-year MCC insurance (Ex. 4), and a Form 1095-B showing MCC insurance from January through September (Ex. 5).

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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had full-year MCC insurance, she indicated on her Schedule HC that she was uninsured for the year, and was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she was employed from January through June, during which time she had employer health insurance, and continued that insurance through COBRA until the end of September, when she could no longer afford it. She further testified that she enrolled in subsidized insurance through the Health Connector for the month of December.

The Form 1099-HC submitted by the appellant clearly establishes that she had full-year MCC insurance as a result of which she should not have been assessed a penalty for any part of the year. It should be noted, however, that the document does not square with her testimony that she was insured from January through September, and then for the month of December. The Form 1095-B is consistent with her testimony in that it shows employer coverage from January through September. Ultimately, this is a distinction without a difference since the appellant would not be subject to a penalty even if she did not have insurance for the months of October and November, given the three-month grace period which is not subject to a penalty. Furthermore, the fact that she did have full-year coverage eliminates the need for any analysis into the inconsistency between her testimony and the documentation. Suffice it to say that some of the details of her coverage may have faded over time.

Based on the totality of the evidence, it is concluded that the appellant is not subject to a penalty for any part of the year, and her request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2021, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1855

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 13, 2022

Decision Date: August 14, 2022

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 13, 2022, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 27-years-old, is single and does not have children. He did not have health insurance in 2021. He resided in Norfolk County in 2021. (Testimony, Ex. 2)
2. The appellant last had health insurance for a portion of 2020 through the Health Connector. (Testimony)
3. The appellant was employed in 2021. His employer did not offer health insurance. He investigated health insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$250.00 which he could not afford. (Testimony, Ex. 1)
4. The appellant's mother has been in and out of the hospital due to mental health issues. She was recently evicted from her housing. Where possible, the appellant assists his mother and two younger brothers who live with her by paying for a portion of their food and other miscellaneous expenses. (Testimony, Ex. 1)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant was enrolled in health insurance for three-four months at the beginning of 2022. His employer is investigating insurance options for him and one other employee. (Testimony)
6. The appellant reported an adjusted gross income of \$38,080.00 on his 2021 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. The appellant lived with his girlfriend in 2021 and shared household expenses with her. (Testimony)
8. In 2021, the appellant had regular monthly expenses of approximately \$1795.00 for rent which included heat (\$900.00), cell phone (\$55.00), cable and internet service (\$95.00), automobile insurance (\$265.00), gasoline (\$240.00) and food (\$240.00). In addition, the appellant was paying off a personal loan at \$250.00/month through July, and had credit card debt for which he paid approximately \$250.00/month. (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2021](http://www.mass.gov/dor/docs/dor/health-care/2021), and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him because 1) the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities; and 2) for “other” reasons. 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2021, he last had insurance in 2022 through the Health Connector for a portion of the year. He testified that he is employed, but his employer does not offer health insurance. He testified that he investigated insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$250.00 which he could not afford. He testified that his mother has mental health issues and was recently evicted from her housing, and he assists her and his two younger brothers with their food costs and other miscellaneous expenses. Finally, he testified that he had health insurance for three-four months at the beginning of 2022, and his employer is looking into insurance options for him and another employee.

The evidence provided by the appellant established that his income for 2021, \$38,080.00, was less than 300% of the federal poverty level (FPL), which for 2021 was \$38,280.00 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 \$31,901.00 and \$38,280.00 is deemed to be able to afford a monthly premium of \$159.00 (5.00% of

\$38,080.00/12). Table 4 of the Premium Schedule indicates that a 26-year-old individual (the age of the appellant in 2021) in Norfolk County (where the appellant resided in 2021) could have purchased private health insurance for \$263.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$159.00 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, he may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2021. 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 2021 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that from January through July, 2021, he incurred basic monthly expenses of approximately \$2295.00, including credit card debt and repayment of a personal loan, and \$2045.00 including credit card debt only from August through December. Although those expenses were less than his regular monthly pre-tax income of approximately \$3173.00, the difference between income and expenses of \$878.00 (January through July) and \$1128.00 (August through December) was an inadequate cushion to cover a monthly premium of \$159.00 for subsidized health insurance, particularly in light of unforeseen expenses which inevitably arise. Moreover, the appellant's expenses do not include any costs he was covering for his mother and brothers, which means that he even had less of a safety net between income and expenses. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2021 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

In the event that his employer is unable to provide health insurance, the appellant is advised to investigate his eligibility for subsidized health insurance during the open enrollment period for 2023 which runs from November 1, 2022 until January 23, 2023, either through mahealthconnector.org or by contacting customer service at 1-877-623-6765 for assistance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1857

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 13, 2022

Decision Date: August 17, 2022

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 13, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

Ex. 1—Statement of Grounds for Appeal—2021

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 48-years-old, is married and has three adult children. ² She had MassHealth Limited insurance for all of 2021. She resided in Hampden County in 2021. (Testimony, Ex. 2)
2. The appellant has had MassHealth Limited for the past three years. (Testimony)
3. The appellant is not a U.S. citizen, but has been a permanent resident for the past four years. (Testimony)
4. The appellant was employed in 2021. Her employer did not offer health insurance. She investigated health insurance options through the Health Connector and was asked to submit proof of income. The

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

² The appellant testified that she is married and her husband lives in the Dominican Republic. She testified that he has never lived with her in the U.S. and does not have a social security number. On her 2021 tax return, she indicated that her filing status is single. Her return was prepared by a relative.

documents she submitted were not acceptable in part because her employer could not provide sufficient payment information. (Testimony, Ex. 1)

5. The appellant lives with one of her children and she shares some household expenses with him, such as rent and heat. (Testimony)
6. The appellant reported an adjusted gross income of \$21,107.00 on her 2021 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2021, the appellant had regular monthly expenses of approximately \$1755.00 for rent (\$950.00), heat (\$100.00), electricity (\$250.00), cell phone (\$55.00), and food (\$400.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2021 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 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she could not get approved for MassHealth because she has not been a resident of the U.S. for five years. She further stated that she investigated her options through the Health Connector and was advised that she “should be getting MassHealth because of [her] job”. 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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified that she has had MassHealth Limited insurance for the past three years. She testified that she has been a permanent resident of the U.S. for the past four years. She testified that she was employed in 2021, but her employer did not offer health insurance. Finally, she testified that she investigated her eligibility for insurance through the Health Connector, and was asked to submit proof of income, but the payment information from her employer was not accepted.

The appellant’s immigration status is key to whether she qualifies for insurance through MassHealth or the Health Connector. Presumably, since she has been a U.S. permanent resident for less than five years, she would not qualify for MassHealth, and may be eligible for subsidized insurance through ConnectorCare. MassHealth Limited, the type of insurance that she had in 2021 and for the preceding two years, provides emergency health services to people with an immigration status that keeps them from getting more services

The evidence provided by the appellant established that her income for 2021, \$21,107.00, was less than 300% of the federal poverty level (FPL), which for 2021 was \$38,280.00 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 \$19,141.00 and \$25,520.00 is deemed to be able to afford a monthly premium of \$51.00 (2.90% of \$21,107.00/12). Table 4 of the Premium Schedule indicates that a 47-year-old individual (the age of the appellant in 2021) in Hampden County (where the appellant resided in 2021) could have purchased private health insurance for \$355.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria including immigration requirements, and for which she would have been subject to a subsidized premium of approximately \$55.00 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized 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 2021. 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 2021 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 2021, she incurred basic monthly expenses of approximately \$1755.00. Those expenses were only \$1.00 less than her regular monthly pre-tax income of approximately \$1758.00, thereby making a subsidized insurance premium of \$55.00/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).

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2021 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised to investigate her eligibility for subsidized health insurance for 2023 during the open enrollment period which runs from November 1, 2022 until January 23, 2023, either through **mahealthconnector.org** or by contacting customer service at 1-877-623-6765 for assistance. It is also recommended that she seek assistance with the insurance process from a local health clinic or hospital, including assistance in her native language.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA211872

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2021 Tax Year Penalty
Hearing Date: July 18, 2022
Decision Date: August 26, 2022

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 18, 2022. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated March 22, 2022
- Exhibit 3: Correspondence from Health Connector, dated June 8, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 43 years old in 2021 and resided in Bristol County (Exhibit 1).
2. Appellant filed a Massachusetts 2021 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2021 of \$22,029 (Exhibit 1).
4. During early 2021, Appellant did not live in Massachusetts on a permanent basis (Testimony of Appellant).
5. During early 2021, Appellant had three family members who were very ill and lived in different states (Testimony of Appellant).
6. Appellant travelled to see the three family members and to participate in their care (Testimony of Appellant).
7. In September 2021, Appellant made Massachusetts Appellant's permanent home. Appellant began a job and obtained a Massachusetts driver's license (Testimony of Appellant).
8. Appellant's job did not provide employer sponsored health insurance (Testimony of Appellant).
9. Appellant was not aware of the availability of subsidized health insurance when Appellant moved to Massachusetts (Testimony of Appellant).
10. Appellant depended on financial help from family members during 2021 (Testimony of Appellant).
11. Appellant struggled to pay for basic necessities in 2021 (Testimony of Appellant).
12. Appellant began health insurance coverage in 2022 (Testimony of Appellant).

13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

14. According to Table 3 of Schedule HC for 2021 a person filing as single with no dependents claimed with an adjusted gross income of \$22,029 could afford to pay \$53 per month for private insurance. According to Table 4, Appellant, who was 43 years old and lived in Bristol county could have purchased private insurance for a cost of \$294 per month.

15. Private insurance was not considered affordable for Appellant in 2021 (Schedule HC for 2021).

16. Appellant, earning less than \$38,280 would have been income eligible for government subsidized health insurance (Schedule HC for 2021).

17. Appellant did not have health insurance for twelve months of 2021 (Exhibit 1 and Testimony of Appellant).

18. Appellant has been assessed a penalty for twelve months for 2021 (Exhibit 1).

19. Appellant filed a hardship Appeal on March 22, 2022 (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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship See 956 CMR 6.

Appellant was income eligible for subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. During January through August 2021, Appellant provided care for three relatives who were very ill. The relatives lived in different states and Appellant travelled to care for them. In September 2021, Appellant began working and living in Massachusetts. Appellant struggled to pay for necessities during 2021. Appellant received financial help from family members in order to pay for necessities. The expense of purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing or other necessities. See Schedule HC for 2021, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2021 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 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1924

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 29, 2022

Decision Date: August 4, 2022

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 29, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 22, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 29 in October 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$95,916 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in March 2022. The Appellant did not identify the basis for their appeal (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$95,916 could afford to pay \$639 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Essex County, could have purchased private insurance for \$263 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare in tax year 2021 because their income of \$95,961 exceeded 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
9. The Appellant testified that that they switched jobs in tax year 2020 and their tax year 2021 employer did not offer health insurance. The Appellant said that they tried to get insurance through the Health Connector a few times but did not perform their due diligence and missed Open Enrollment. The Appellant said that this is why they did not check any boxes on the Statement of Grounds for Appeal. The Appellant remains uninsured as of July 2022 (Exhibit 3 and Appellant Testimony).
10. The Appellant did not offer any evidence or testimony to demonstrate that they experienced a financial hardship that prevented them from obtaining health insurance (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2021. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal in March 2022 and did not allege 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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$95,916 could afford to pay \$639 per month for health insurance. In accordance with Table 4, the Appellant, age 29, living in Essex County, could have purchased private insurance for \$263 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.

The Appellant did not have access to employer sponsored health insurance in tax year 2021. The Appellant was not eligible for ConnectorCare because their income of \$95,916 exceeded 300% of the federal poverty level of \$38,280 for a household of one. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant filed an appeal in March 2022. The Appellant testified that they attempted to purchase health insurance through the Health Connector a few times but did not perform due diligence and missed Open Enrollment. The Appellant remains uninsured as of the date of the Hearing, July 29, 2022.

The Appellant did not offer any evidence or testimony to indicate that the cost of purchasing health insurance for 2021 would have caused the Appellant to experience a serious financial hardship. Given the Appellant's income of \$95,916 and the fact that private insurance was available at a monthly cost of \$263, the Appellant's twelve-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __12____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1925

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 29, 2022

Decision Date: August 4, 2022

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 29, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 24, 2022.
- Exhibit 4: Appellant's letter in support of the Appeal with attachments.
- Exhibit 5: A copy of Form 1095-C 2021 submitted by the Appellant on July 28, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 32 in March 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2021 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$75,794 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in March 2022 citing financial hardship (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
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, with an annual adjusted gross income of \$75,794 could afford to pay \$505 per month for health insurance. In accordance with Table 4, the Appellant, age 32, living in Middlesex County, could have purchased private insurance for \$268 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant.
8. The Appellant had access to affordable employer sponsored health insurance for the period of April through December in tax year 2021. The monthly premium of \$151.07 was less than the \$505 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2021 Exhibit 5).
9. The Appellant was not financially eligible for ConnectorCare in tax year 2021 because their income of \$75,794 exceeded 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
10. The Appellant testified that that they were living out of state until December 2020 when they began a new job. The Appellant said that when they returned to Massachusetts they lived with relatives until they could find permanent housing. The Appellant indicated that their company is based out of state, and they tried calling Human Resources to enroll in health insurance, but they were busy. The Appellant said that they gave up and figured they would just pay the tax penalty. The Appellant said that they expected the penalty to be around \$500 but it ended up being much more expensive because of their income (Appellant Testimony).
11. The Appellant did not submit any evidence or testimony to verify that they experienced a substantial financial hardship due to high living expenses, a family emergency or other human caused or natural disaster (Exhibits 3, 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months in tax year 2021. The Appellant has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal in March 2022 alleging financial hardship associated with moving to Massachusetts in December 2020.

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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$75,794 could afford to pay \$505 per month for health insurance. In accordance with Table 4, the Appellant, age 32, living in Middlesex County, could have purchased private insurance for \$268 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.

The Appellant did have access to employer sponsored health insurance during the period of April through December in tax year 2021. The monthly premium of \$151.07 was less than the \$505 per month deemed affordable under Table 3 of Schedule HC for 2021. The Appellant was not eligible for ConnectorCare because their income of \$75,794 exceeded 300% of the federal poverty level, which was \$38,280 for a household of one in 2021. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they were living out of state prior to December 2020. The Appellant explained that they started a new job, returned to Massachusetts in December 2020 and lived with relatives for a few months until they could find permanent housing. Under the regulations, residents who have moved to Massachusetts are allowed a grace period to obtain health insurance. See 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 Appellant did not have access to employer sponsored health insurance until April 2021. Under these circumstances the Appellant's penalty is waived for the three-month period of January through March 2021.

The Appellant testified that they were employed by an out of state company they had to contact the out of state Human Resources Department to enroll in their employer's health plan. The Appellant said that they tried calling several times, but the call was transferred and people were busy. The Appellant stated that they were also busy and gave up contacting their employer after deciding to pay the Massachusetts tax penalty assuming this would be about \$500. The Appellant said that they had no idea the penalty would be so much higher.

With income of \$75,794 and the fact that the Appellant could have enrolled in their employer sponsored health insurance at a monthly cost of \$151.07, the Appellant has failed to demonstrate that the cost of purchasing health insurance for the period of April through December 2021 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The penalty for this nine-month period is upheld.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1926

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 29, 2022

Decision Date: August 4, 2022

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 29, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 15, 2022.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on March 25, 2022.
- Exhibit 4: Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 51 in August 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$35,352 (Exhibit 2).
4. The Appellant had health insurance for the period of August through December but did not have health insurance for the period of January through July in tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a four-month tax penalty for 2021. The Appellant filed an appeal of the assessment in March 2022 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 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 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$35,352 could afford to pay \$147 per month for health insurance. In accordance with Table 4, the Appellant, age 51, living in Middlesex County, could have purchased private insurance for \$390 per month (Schedule HC for 2021). Private insurance was not affordable for the Appellant.
8. The Appellant did not have employer sponsored health insurance for the period of January through July 2021. The Appellant was financially eligible for ConnectorCare because their income of \$35,352 was less than 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
9. The Appellant testified that that they began working for a Temp agency in December 2020 and expected the job to last three months. The job was extended to six months and the Appellant was then hired as a full-time employee. The Appellant was able to enroll in employer sponsored health insurance as of August 2021. The Appellant acknowledged that they did not attempt to enroll in a health insurance plan for the period beginning January 1, 2021 despite being aware that they were not eligible for employer sponsored health insurance (Appellant Testimony).
10. As a Temp employee for the period of January through July 2021 the Appellant was employed for forty hours weekly at a rate of \$15.00 per hour (\$2,600 monthly). The Appellant lived with relatives and paid \$300 per month for room and board. The Appellant had no car or travel expenses but made payments toward credit card debt. The Appellant said that total payments made in 2021 were between \$3,000- \$5,000 (\$250-\$417 monthly) (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 health insurance for the period of August through December but did not have health insurance for the period of January through July in tax year 2021. The Appellant has consequently been assessed a four-month penalty. The Appellant submitted a statement of grounds for this appeal in March 2022.

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 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$35,352 could afford to pay \$147 per month for health insurance. In accordance with Table 4, the Appellant, age 51, living in Middlesex County, could have purchased private insurance for \$390 per month (Schedule HC for 2021). Private insurance was not affordable for the Appellant in 2021.

The Appellant did not have access to employer sponsored health insurance for the period of January through July in tax year 2021. The Appellant was eligible for ConnectorCare because their income of \$35,352 was less than 300% of the federal poverty level of \$38,280 for a household of one. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant began working for a Temp agency in December 2020 and expected their position to last three months. This was extended to six months and ultimately the Appellant was hired as a full-time employee with access to employer sponsored health insurance for the period of August to December 2021. The Appellant acknowledged that they did not attempt to enroll in a health insurance plan for the period beginning January 1, 2021 despite knowing they did not have access to employer sponsored health insurance.

The Appellant's monthly income was \$2,600 for the period of January through July 2021. The Appellant lived with relatives and paid \$300 monthly for room and board. The Appellant did not identify any other monthly living expenses but did state that they paid between \$3,000 and \$5,000 over the course of tax year 2021 toward credit card debt incurred prior to tax year 2021. Given the Appellant's income, limited living expenses, and the fact that the Appellant had access to subsidized health insurance through the ConnectorCare program, the Appellant has failed to demonstrate that enrolling in a ConnectorCare plan would have caused the Appellant to experience a serious financial hardship. The Appellant's four-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1948

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 16 2022

Decision Date: August 30, 2022

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 16, 2022, and testified under oath. The hearing record consists of her testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2021
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Final Appeal Decision in PA16-1622 dated June 7, 2017
- Ex. 4—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 54-years-old, is single and does not have children. She did not have health insurance in 2021. She resided in Worcester County in 2021. (Testimony, Ex. 2)
2. Prior to 2021, the last time the appellant had health insurance was about ten years ago. With the exception of the 2016 tax year, she does not believe that she has ever been assessed a penalty for failure to obtain insurance. (Testimony)
3. The appellant works as a special needs van driver during the school year. She is typically laid off during the summer months and receives unemployment compensation. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2021 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. The appellant was employed in 2021. Her employer offered health insurance, but she did not work a sufficient number of hours to qualify. She investigated insurance options through the Health Connector and determined that she could not afford the cost. (Testimony)
5. The appellant has been taking care of a disabled individual since birth. She was unable to adopt him because his mother would not grant custody to her. He is currently 19-years-old and is paralyzed. He uses a motorized wheelchair. He has health insurance through MassHealth and his food, clothing and medical expenses are also covered. The appellant takes care of all his other financial needs. (Testimony, Ex. 1)
6. The appellant was assessed a twelve-month penalty for the 2016 tax year and filed an appeal with the Health Connector. Following a hearing, the hearing officer waived the penalty for eleven of the twelve months on the ground that she had not taken steps to comply with her obligation to obtain health insurance, either through her employer or the Health Connector. The hearing officer strongly recommended that the appellant clarify her eligibility for subsidized insurance through the Connector. (Ex. 3)
7. The appellant reported an adjusted gross income of \$32,037.00 on her 2021 federal tax return, and reported that she was single with one dependent. (Ex. 2)
8. In 2021, the appellant had regular monthly expenses of approximately \$2473.00 for rent (\$1000.00), heat (\$243.00), electricity (\$150.00), cell phone (\$100.00), automobile insurance (\$100.00), gasoline (\$80.00) and food (\$800.00). (Testimony)

In addition to the foregoing, I take administrative notice of the 2021 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2021>, and in particular, Tables 1-6 which include the Affordability Schedule and other financial information used in making 2021 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 1) the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities; and 2) she incurred a significant, unexpected increase in essential expenses resulting directly from the death of a family member or partner with primary responsibility for child care where household expense were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that required a full-time caretaker for the child. She also submitted a letter with her statement in which she stated in part that she all her money goes towards caring for the disabled child for whom she receives no financial help.

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 2021, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a

result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified that she has not had health insurance for many years and with the exception of 2016, she has not been assessed a penalty for failure to obtain insurance. She testified that she was not eligible for employer insurance in 2021 because she did not work a sufficient number of hours to qualify. She testified that she investigated insurance options through the Health Connector and determined that the cost was not affordable. Finally, she testified that she has been taking care of a disabled child since his birth and looks after all his financial needs that are not covered by MassHealth.

The evidence provided by the appellant established that her income for 2021, \$32,037.00, was less than 300% of the federal poverty level (FPL), which for 2021 was \$38,280.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with one dependent with a federal adjusted gross income between \$25,861.00 and \$34,480.00 is deemed to be able to afford a monthly premium of \$114.80 (4.30% of \$32,037.00/12). Table 4 of the Premium Schedule indicates that a 53-year-old individual (the age of the appellant in 2021) in Worcester County (where the appellant resided in 2021) could have purchased private health insurance for \$390.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$114.80 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized 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 2021. 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 2021 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 2021, she incurred basic monthly expenses of approximately \$2473.00. Although those expenses were less than her regular monthly pre-tax income of approximately \$2670.00, the difference of \$197.00 between income and expenses is inadequate to cover a subsidized insurance premium of \$114.80/month, particularly in light of unanticipated expenses which typically arise, as well as those she incurs in her care for her dependent. 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). ²

² This conclusion makes it unnecessary to consider the other ground upon which the appeal was filed.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2021 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised to investigate her eligibility for subsidized health insurance for 2023 during the open enrollment period which runs from November 1, 2022 until January 23, 2023, either through **mahealthconnector.org** or by contacting customer service at 1-877-623-6765 for assistance. There may be plans with a lower monthly premium for which she might be eligible.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1953

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 17, 2022

Decision Date: August 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 17, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 11, 2022
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated March 29, 2022
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty years old and is single with one dependent. He lives in Worcester County, Massachusetts.
2. Appellant worked in a auto business.
3. Appellant does not have health insurance in 2022 but is attempting to obtain coverage from a hospital in Rhode Island and did not have health insurance in 2021. His ex-wife covers his daughter's health insurance.
4. Appellant indicated that his company did not offer health insurance. Appellant felt that he could not afford health insurance.
5. The Appellant's monthly expenses totaled \$4,992.00, consisting of rent \$1,200.00, heat & light \$200.00, internet & cable \$80.00, cell phone \$125.00, car insurance \$120.00, car gas \$320.00, food \$900.00, clothing \$250.00, car repairs \$150.00, supplies for work \$250.00, child support \$1,397.00
6. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$75,587.00 was more than \$51,720.00. The monthly premium for health insurance available on the private market in Worcester County for a 49 year old single person was \$390.00. The tables reflect that Appellant could afford \$503.91. This is less

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal “Other. During 2021 other circumstances, such as : applying the Affordability Tables in Schedule HC to you is inequitable”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$25,860.00 for a single person with one dependent⁰

. *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 2021 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$75,597.00 in 2021, and Appellant’s filing status was single with one dependent, but his wife paid for the health insurance of the dependent. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and

Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$503.91 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of 390.00 monthly for coverage with zero dependents, as his wife paid for the dependents health insurance *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 worked in a auto business. Appellant does not have health insurance in 2022 but is attempting to obtain coverage from a hospital in Rhode Island and did not have health insurance in 2021. His ex-wife covers his daughter’s health insurance.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2021 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-1956

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 17, 2022

Decision Date: August 23, 2022

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 17, 2022. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated July 11, 2022

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 20, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-seven years old and is single. He lives in Middlesex County, Massachusetts.
2. Appellant worked in a restaurant business.
3. Appellant does have health insurance in 2022.
4. Appellant indicated that his company did not offer health insurance. Appellant felt that he could not afford health insurance.
5. The Appellant's monthly expenses totaled \$2,645.00, consisting of rent \$1,100.00, heat & light \$150.00, internet & cable \$135.00, cell phone \$60.00, transportation \$300.00, food \$600.00, clothing \$200.00, toiletries \$100.00
6. The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. 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 2021.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$61,892.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Middlesex County for a 36 year old single person was \$275.00. The tables reflect that Appellant could afford \$412.61. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did submit a Statement of Grounds for Appeal-2021 under the grounds for Appeal “During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$25,860.00 for a single person with one dependent.

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

Since Appellant’s 2021 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2021. 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 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$61,892.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$412.61 monthly for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of

\$275.00 monthly for coverage with zero dependents, as his wife paid for the dependents health insurance *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 worked in a restaurant business. Appellant indicated that his company did not offer health insurance. Appellant felt that he could not afford health insurance.

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2021 penalty assessed is **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: ____3____ Number of Months Assessed: ____3____

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2021 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit