

FINAL APPEAL DECISION: PA23-209

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 11, 2024

Decision Date: July 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on July 11, 2024. 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:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/22/2024.	(2 PP).
Exhibit 2(a):	Appellant's Written Statement in Support of Appeal.	(1 P).
Exhibit 2(b):	Appellant's Unemployment Documents	(2 PP).
Exhibit 2(c):	Appellant's Dashboard Rent Payments	(2 PP).
Exhibit 2(d):	Appellant's Auto Loan Payments	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/6/2024.	(2 PP).

The record was left open until July 29, 2024, for the Appellant to submit proof of documentation from his monthly Credit payments. On July 24, 2024, the Appellant submitted the following:

Exhibit 4:	Documentation from Appellant's monthly Credit payments	(2PP).
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FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single, age 39 in 2023 had 0 dependents in 2023 and lived in Middlesex County. (Exhibit 1).
2. The Appellant testified he was laid off from employment in July 2024 and lost Employer Sponsored Insurance (ESI). (Appellant's Testimony, Exhibit 2(a)).
3. The Appellant collected unemployment insurance in the amount of \$1,015 per week during the time he was unemployed. (Exhibit 2(b)).
4. The Appellant's Federal Adjusted Gross Income for 2023 was \$114,502. (Exhibit 1).

5. The Appellant has been assessed a tax penalty for two (2) months in 2023. The Appellant has appealed against this assessment (Exhibits 1, 2).
6. The Appellant credibly testified that he did not investigate Connectorcare because he thought he would be unable to afford coverage. (Appellant's Testimony).
7. According to Table 3, the Appellant could have afforded \$763.35 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$335 per month.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
9. The Appellant testified his monthly living expenses in 2023 included: Rent: \$2,450, Car Payment: \$789.78; Car Insurance: \$200; Gas: \$20 Cell Phone: \$50; Internet: \$49, Food/Incidentals: \$150, Collection Actions (2): \$931.50, totaling \$4,640.50. (Testimony, Exhibits 2(a)-(h), and 4).
10. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for two (2) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with his appeal that during 2023: the individual mandate did not apply to him because he was unable to afford coverage because of a hardship (Testimony, (Exhibits 2, 2(a)-(d) and Appellant Testimony).

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 2023: \$114,502 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to

Table 3 of Schedule HC for 2023 the Appellant could have afforded \$763.35 per month. According to Table 4, the Appellant, age 39, and with zero (0) dependents and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$335.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that he was laid off and his ESI ended. (Appellant’s Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(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 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). Based upon the facts summarized above, I find that the Appellant did not have access to ESI during the period he was uninsured. (Testimony, Exhibit 2(a)).

Given that affordable private insurance was available to the Appellant during the time he was being penalized, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could not have afforded private insurance at \$763.35 per month during the times he was uninsured where his unemployment income was approximately \$4,060 per month and his monthly expenses of \$4,640.00. (Testimony, Exhibit 2(a)-(d), and 4). Accordingly, I find that the Appellant has met the hardship criteria and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

Accordingly, 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 in full** and the penalty is waived.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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/her income and employment have not changed, he 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 23-208

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 11, 2024

Decision Date: July 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on July 11, 2024. 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:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/25/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Ledger of Monthly Bills in Support of Appeal	(1 P).
Exhibit 2(b):	Receipt of Car Rental dated 12/17/23	(1 P).
Exhibit 2(c):	Auto Body Adjuster’s Documents dated 6/20/23	(1 P).
Exhibit 3:	Health Connector’s Notice of Hearing dated 6/6/2024.	(7 PP).

The record shows, and I so find:

1. The Appellant, single, filed a 2023 Massachusetts tax return filed with a family size of 1, was age 48 in 2023, lived in Barnstable County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$73,629. (Exhibit 1).
3. The Appellant, who is being penalized for twelve (12) months, testified that she was not eligible for Employer Sponsored Insurance (“ESI”). (Testimony).
4. The Appellant testified she investigated MassHealth, but her income was too high. (Testimony).

5. The Appellant testified she was not familiar with Connectorcare as she had moved to Massachusetts in 2021. (Testimony).
6. The Appellant testified that her net pay was approximately \$2,000 on a biweekly pay period. (Testimony).
7. According to Table 3 Appellant could have afforded \$490.86 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$409.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family of (1). (See Table 2 of Schedule HC 2023).
9. The Appellant's provided a ledger of her monthly living expenses in 2023 which included: Rent: \$1,300, Gas/Electric Utilities: \$625; Car Payment: \$335; Car Insurance: \$60; Transportation Costs (Gas): \$300; Internet: \$110, Food/Groceries: \$500; Personal Loan: \$140, totaling \$3,370. (Appellant's Testimony).
10. I give limited weight to the Appellant's out of pocket costs for other unexpected expenses related to a motor vehicle accident including insurance deductibles and costs for a rental vehicle for 6 months of a \$9,000 cash payment. Exhibits 2(b), (c), and Appellant's Testimony).
11. I give limited weight to the amount of the unexpected expense given the length of time(6 months) and also where it was not corroborated with proof of payment from the Appellant. (Exhibits 2(b), (c), and Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. 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 during 2023 that the individual mandate did not apply to her because she could not afford health insurance from because of a hardship (Exhibit 2(a)-(c) and Appellant Testimony).

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 2023, \$73,269 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have been paid \$490.86 per month. According to Table 4, Appellant, age 48 in Barnstable County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$409 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant testified that she was not eligible for ESI. (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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 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 was not eligible for ESI (Appellant Testimony).

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

I find the Appellant could have afforded private insurance at \$490.86 per month during the time she was being penalized given that her net biweekly income of approximately \$2,000 was greater than the cost of her monthly basic necessities of approximately \$3,370. (Testimony, Exhibit 2(a)). Accordingly, I find that the Appellant has not met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). The Appellant was advised to obtain health insurance. In order to mitigate the harshness of a full penalty, the penalty is reduced to four (4) months.

Accordingly, in order to mitigate the harshness of a full penalty and 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 in part**.

PENALTY ASSESSED

Number of Months Appealed: 12 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 her eligibility for subsidized health insurance through the Health Connector at www.mahealthconnector.org or by contacting customer service at 1-877-623-6765.

FINAL APPEAL DECISION: PA23-157

Appeal Decision: Appeal Granted in part; the tax penalty is partially waived

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: June 11, 2024

Decision Date: July 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed his 2023 tax return as Single. The Hearing was held by telephone, on June 11, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated May 17, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 21, 2024, with attachments.
- Exhibit 4: Information on Appellant's Health Insurance provided in response to Open Records Request

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 44 in January 2023, and filed his Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Middlesex County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$88,897 (Exhibit 2).
4. Appellant did not have health insurance for ten months of 2023 (Appellant's Spouse Testimony).

5. Appellant has been assessed a seven-month tax penalty for 2023 (Exhibit 2).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing his Federal Tax return as Single, with an annual adjusted gross income of \$88,897 could afford to pay \$593 per month for health insurance. In accordance with Table 4, Appellant, age 44 living in Middlesex County, could have purchased private insurance for \$380 per month. Private insurance was affordable for Appellant.
8. Appellant's testified that he was employed full time until March 2023, and had health insurance through his full-time employer. He explained that when he was laid off in 2023 and he could afford the COBRA coverage offered for one month only. He testified that he collected unemployment insurance beginning in July of 2023 (Appellant Testimony and Exhibit 2).
9. He testified that he searched various options for health insurance including the Health Connector website and found it confusing. He testified in April of 2023 that he found a health insurance policy via an internet search which was affordable and was told by a representative of the insurer that the policy met the requirement of Massachusetts law. He testified he believed his health insurance policy met all legal requirements in Massachusetts and discovered this was not the case when he filed his taxes for 2023. The membership card provided by his insurer states the plan meets Minimum Essential Coverage (MEC) and added that his premium was \$452 a month. He added that he currently has coverage through this plan and his current employer is changing the plans they provide to employees (Appellant Testimony and Exhibits 3 and 4).
10. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
11. Appellant testified that his monthly living expenses in 2023 were \$1,600 including his health insurance, rent and alimony payments (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with M.G.L. Chapter 111M, Section 2, also called the "individual mandate". The mandate requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority.

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed his Federal tax return as Single and had an adjusted gross income of \$88,897. He testified that he could not afford to pay for health insurance via the Health Connector or on the private market. In accordance with Table 3 he could afford to pay \$593 per month. According to Table 4, Appellant age 44, living in Middlesex County, could have purchased private insurance for \$380 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$42,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant did not testify to any economic and personal hardships in 2023. He was laid off from a full-time position and then collected unemployment compensation insurance. Appellant purchasing a health care plan on his own would not have created an economic hardship.

Appellant did have a health insurance plan in 2023, which he credibly believed was compliant with Massachusetts law. Unfortunately for Appellant, the plan which he paid \$452 a month for, did not meet the standards of the Massachusetts definition of Minimum Credible Coverage. Additionally, the plan he obtained after losing his full-time employment deviated significantly from an MCC plan as defined in 950 CMR 5.09. For example, the plan describes itself as a "preventive and wellness tests and treatments" plan (Exhibits 3 and 4). The plan has virtually no prescription drug coverage (with the exception of preventive prescriptions), it specifically excludes childbirth and pregnancy coverage as well as radiology treatments. These benefits must all be included in a plan to meet MCC requirements in accordance with

956 CMR 5.03. Since none of these benefits are included in Appellant’s plan, it is my opinion that his plan deviated greatly from an MCC plan and this should not result in a full waiver of his penalty.

However, the Appellant was detailed and honest in his testimony and in the documents he presented. The plan he purchased (at a higher premium than Table 4 rates) held itself out as meeting “Minimum Essential Coverage”, a term that is misleading at best. In addition, Appellant said he was never told the plan did not meet MCC requirements, rather he believably testified that he was told on the phone by a representative of the plan that it did meet the MCC requirements for Massachusetts. It should be noted that nowhere on the literature or documentation in the file is there language to disclose that the plan is not MCC compliant. Appellant did bear some burden of responsibility to determine if the plan was MCC compliant, rather than learning this fact when he was filing his taxes. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness Appellant’s penalty is reduced from seven months to three months.

The Appellant should note that the partial waiver of his penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 7 Number of Months Assessed: 3

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA23-201

Appeal Decision: Appeal Granted in part; the tax penalty is partially waived

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 9, 2024

Decision Date: July 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant filed her 2023 tax return as Single. The Hearing was held by telephone, on July 9, 2024. The procedures to be followed during the Hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objections. 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 6, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.

Exhibit 3: Statement of Grounds for Appeal dated March 24, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was age 27 in January 2023, and filed her Federal Income Tax return as Single (Exhibit 2).
2. The Appellant lived in Norfolk County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$60,951 (Exhibit 2).
4. Appellant did not have health insurance for twelve months of 2023 (Appellant's Spouse Testimony).
5. Appellant has been assessed a twelve-month tax penalty for 2023 (Exhibit 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing her Federal Tax return as Single, with an annual adjusted gross income of \$60,951 could afford to pay \$406 per month for health insurance. In accordance with Table 4, Appellant, age 27 living in Norfolk County, could have purchased private insurance for \$312 per month. Private insurance was affordable for Appellant.
8. Appellant testified that she arrived in the United States towards the end of 2022. She stated in 2023 she was employed full time in 2023 and mistakenly believed she had health insurance via her employer. She stated after filing her taxes in 2023 she discovered she was not insured and went to her employer and got on the employer's plan. She applied to the Health Connector, and she said it was not open enrollment season and was denied. She stated she currently does not have health insurance (Appellant Testimony and Exhibit 3).
9. The Appellant's income was more than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
10. Appellant testified that her monthly living expenses in 2023 exceeded \$2,300 including rent and food (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts Minimum Credible Coverage (MCC) requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or

substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 5.03 and 6.08.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filed her Federal tax return as Single and had an adjusted gross income of \$60,951. She testified that she did not search for a plan via the Health Connector or on the private market since she mistakenly thought she was insured. In accordance with Table 3 she could afford to pay \$406 per month. According to Table 4, Appellant age 27, living in Norfolk County, could have purchased private insurance for \$312 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$42,770 for a household of one in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellant would not have qualified for MassHealth based on the income requirements in 2023.

Appellant did testify to economic and personal hardships in 2023. Appellant purchasing a health care plan on her own could have created an economic hardship based on her monthly expenses and income. She did not look for a plan in 2023 because she mistakenly believed she had health insurance. She stated she did not have to use health care in 2023. She discovered in 2024 that her employer did not provide health insurance and she was not eligible for MassHealth. She attempted to find a Health Connector plan, but could not do to it because it was not open enrollment.

The Appellant had an obligation to find a health care insurance plan and failed to do so. She wrongly assumed she was insured with no basis to do so. However, the Appellant was detailed and honest in her testimony and in the documents she presented. She was new to this country in 2023 and believed she was insured. Accordingly, I am exercising my discretion as the Hearing Officer and in the interest of equity and fairness: Appellant's penalty is reduced from twelve months to six months.

The Appellant should note that the partial waiver of her penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should he again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 6

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-207

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 11, 2024

Decision Date: July 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on July 11, 2024. 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:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/26/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated	(1 P).
Exhibit 2(b):	2023 Form MA 1099-HC submitted in Support of Appeal.	(1 P).
Exhibit 2(c):	Standard Apartment Form Lease and Rent/Security Deposit Receipt	(2 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 6/6/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return filed with a family size of 1, was age 31 in 2023, lived in Middlesex County, and had zero dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$99,127. (Exhibit 1).
3. The Appellant, who is being penalized for five (5) months, testified that he was not offered Employer Sponsored Insurance (“ESI”). (Testimony).
4. The Appellant obtained ESI through his Partner in September 2023. (Exhibit 1, Testimony).

5. The Appellant testified he attempted to obtain insurance through the Connector but was denied because his income was too high and then he was unable to access the website. (Testimony).
6. I do not give substantial weight to the testimony that because him and his partner were moving twice and incurring substantial expenses, they needed to save up money that precluded the Appellant from purchasing health insurance. (Testimony, Exhibit 2(a)).
7. According to Table 3 Appellant could have afforded \$660.85 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$326.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$69,090.00 for a family of three (3). (See Table 2 of Schedule HC 2023).
9. The Appellant testified that his net monthly income fluctuated from \$5,000 to \$9,000 with an average of \$7,000. (Testimony).
10. The Appellant testified his monthly living expenses included: Rent: \$1,450, Gas/Electric Utilities: \$400; Car Insurance: \$100; Transportation Costs (Maintenance Vehicle): \$1,000; Food: \$1,000, Business expenses: \$25, totaling \$3,975. (Testimony).
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2023. 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 during 2023 that the individual mandate did not apply to him because of other circumstances. The Appellant adduced testimony at the hearing not affordable to the Appellant because Appellant experienced a financial hardship (Exhibits 2(a) and Appellant Testimony).

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 2023, \$99,127 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$660.85 per month. According to Table 4, Appellant, age 31 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$326 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant testified that he was not eligible for ESI. (Testimony, Exhibit 2(a). 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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 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 was not eligible for ESI (Appellant Testimony).

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

I find the Appellant could have afforded private insurance at \$660.85 per month during the time he was being penalized given that his net monthly average income of \$5,000 (based on an annual adjusted gross income of \$99,127, *Infra*, finding no. 5) exceeded the cost of his monthly basic necessities of approximately \$3,975. (Testimony, Exhibit 2(a)). Accordingly, I find that the Appellant has not met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). I find the Appellant did not adduce substantial evidence as to why he did not obtain affordable insurance. Accordingly, the Appellant should have realized that he would need health insurance as part of the Massachusetts mandate. However, where the Appellant was uninsured for five (5) months in 2023, and is now insured, and to mitigate the harshness of a full penalty

and 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 **denied**. In part

PENALTY ASSESSED

Number of Months Appealed: 5 Number of Months Assessed: 2

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-211

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 11, 2024

Decision Date: July 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on July 11, 2024. 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:	Statement of Grounds for Appeal 2023	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 3/26/2024.	(1 P).
Exhibit 2(b):	Employment Separation Agreement submitted in Support of Appeal.	(1 P).
Exhibit 2(c):	Massachusetts Unemployment Monetary Determination	(2 P).
Exhibit 2(c):	Standard Form Lease submitted in Support of Appeal.	(1 P).
Exhibit 2(d):	National Grid Utility Bill	(1 P).
Exhibit 3:	Health Connector’s Notice of Hearing dated 6/6/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, single, filed a 2023 Massachusetts tax return filed with a family size of 1, was age 26 in 2023, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$58,207. (Exhibit 1).
3. The Appellant testified she moved to Massachusetts in February 2024 but was eligible for Employer Sponsored Insurance (“ESI”). (Testimony).

4. The Appellant, who is being penalized eight (8) months, testified that she was laid off from her employment at the end of April 2024 and was no longer eligible for Employer Sponsored Insurance (“ESI”). (Testimony, Exhibit 2(a)).
5. The Appellant testified she investigated Connectorcare but the \$200 a month premium was too expensive. (Testimony).
6. The Appellant testified that she was paid a net pay unemployment of \$600 a week. (Testimony, Exhibit 2(b)).
7. According to Table 3 Appellant could have afforded \$388.05 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$312 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was more than 300% of the poverty level, which was \$40,770.00 for a family of (1). (See Table 2 of Schedule HC 2023).
9. The Appellant’s testified her monthly living expenses in 2023 included: Rent: \$1,250, Utilities: \$150: Internet: \$80, Food/Groceries: \$400, totaling \$1,880. (Appellant’s Testimony).
10. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. 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 during 2023 that the individual mandate did not apply to her because of other circumstances: she was unable to afford coverage even though her income qualified her for government sponsored insurance. The Appellant also adduced testimony that she could not afford health insurance from May-December 2023 because of a hardship (Exhibit 2, (a)-(d) and Appellant Testimony).

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 2023, \$58,207 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have been paid \$388.05 per month. According to Table 4, Appellant, age 26 in Middlesex County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$312 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant testified that she was eligible for ESI at a cost of \$246 per month while she was employed through April and lost coverage when she was laid off at the end of April. (Testimony, Exhibit 2(a)). 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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). In this case, the Appellant testified she moved to Massachusetts in February and was laid off at the end of April, I find that applying the 3 month grace period from the time the Appellant arrived, she was not eligible for affordable ESI during the months she was being penalized (Appellant Testimony).

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

I find the Appellant could have afforded insurance of \$388.05 per month during the times she was being penalized given that her net monthly unemployment income of approximately \$2,400 from May through December was greater than the cost of her monthly basic necessities of approximately \$1,880. (Testimony). Accordingly, I find that the Appellant has not met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). However, in order to mitigate the harshness of a full penalty, the penalty is reduced to four (4) months.

Accordingly, in order to mitigate the harshness of a full penalty and 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 in part**.

PENALTY ASSESSED

Number of Months Appealed: 8 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, he is advised to investigate 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 23-225

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 10, 2024

Decision Date: July 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants Husband and Spouse (“Appellants”) appeared at the hearing, which was held by telephone on July 10, 2024. 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 Appellants testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/30/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated //2024.	(2 PP).
Exhibit 2(b):	Car Loan payments submitted in Support of Appeal.	(1 P).
Exhibit 2(c):	Mortgage payments history submitted in Support of Appeal.	(1 P).
Exhibit 2(d):	Taxes, Water, and Sewage payments submitted in Support of Appeal.	(1 P).
Exhibit 2(e):	Real Estate Taxes, Water/Sewage payments submitted in Support of Appeal.	(1 P).
Exhibit 2(f):	Electric payments submitted in Support of Appeal.	(1 P).
Exhibit 2(g):	Oil payments submitted in Support of Appeal.	(1 P).
Exhibit 2(h):	Car Insurance payments submitted in Support of Appeal.	(1 P).
Exhibit 3:	Health Connector’s Notice of Hearing dated 6/7/2024.	(2 PP).

The record shows, and I so find:

1. The Appellants, married filing jointly filed a 2023 Massachusetts tax return filed with a family size of 2, were ages 44 and 34 in 2023, and lived in Worcester County. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$122,755. (Exhibit 1).

3. The Appellants, who are each being penalized for twelve (12) months, testified they had Employer Sponsored Insurance (“ESI”) until they left their positions in January 2024. (Testimony).
4. The Appellant Spouse obtained employment in April 2024 and her husband returned to work in August 2024. (Exhibit 1, Testimony).
5. The Appellants testified that when they returned to work neither employer offered ESI as they were temporary agencies. (Testimony).
6. The Appellants testified they investigated private insurance and Connectercare but it was too expensive as the premiums were approximately \$800 a month. (Testimony).
7. The Appellants testified they did not have any income for two months and they were forced to take early distributions from their 401ks plans with the Husband receiving a net distribution after taxes of \$53,211.35, and his Spouse netting \$5,042 to pay for their basic monthly expenses. (Testimony, Exhibits 2(a)-(h)).
8. The Appellants testified they did not realize that these 401k distributions would be included in their 2023 Adjusted Gross Income of \$122,755. (Testimony).
9. The Appellants testified that their respective incomes while they were employed were each approximately \$35,000 to \$55,000 annually, with hourly pay of \$18 and bonuses. (Testimony).
10. According to Table 3 Appellants could have afforded \$818.37 per month for health insurance in 2023. According to Table 4 Appellant could have purchased a plan insurance for \$716.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
11. The Appellants would not have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was more than 300% of the poverty level, which was \$54,390.00 for a family of two (2). (See Table 2 of Schedule HC 2023).
12. The Appellants testified their monthly living expenses in 2023 included: Mortgage, Taxes, Water: \$1,321.00; Utilities (electric and oil): \$430; Car Insurance: \$104; Internet/Cell: \$170; Food/Incidentals: \$1,000, totaling \$3,025. (Testimony, Exhibits 2(a)-(h)).
13. The Appellants testified they paid their car loan balance in the amount of \$4,102.22 (Testimony, Exhibits 2(a)-(h)).
14. I give limited weight to the Appellant’s testimony credible they were unable to afford private health insurance but were able to pay their car loan in full in the amount of \$4,102.22. (Testimony).
15. The Appellant testified they are now insured through the Husband’s ESI. (Testimony).
16. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used

in making 2023 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 2023 should be waived, either in whole or in part. Appellants have been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to them because they were unable to afford coverage because of a hardship (Testimony, (Exhibits 2, 2(a)-(h) and Appellant Testimony).

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 Appellants established that their income for 2023, \$122,755 was more than 300% of the federal poverty level, which for 2023 was \$54,390 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellants could have afforded \$818.37 per month. According to Table 4, Appellant, ages 44 and 34 in Worcester County during the time they were being penalized for not having insurance, could have purchased an individual insurance plan for \$716.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellants had access to affordable employer health insurance (“ESI”) in 2023. The Appellants testified that they left their employment in January, were out of work for a period, and upon returning to work in April and August, neither was eligible for ESI. (Testimony, Exhibit 2(a). 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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 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 Appellants were not eligible for ESI (Appellants' Testimony).

Given that affordable private insurance was available to the Appellants during the time they were being penalized, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could have afforded ESI at \$818.37 per month during the times they were both employed in August through the remainder of the year, where their net income was approximately \$5,831 and their monthly expenses were \$3,025. (Testimony). I find they were not able to afford insurance during the period they were unemployed from February through July. I give some weight to the Appellant's testimony that they were concerned about the stability of their temporary employment, income, and being able to pay their basic monthly expenses as a reason not to purchase health insurance when they both became employed. I give limited weight to the Appellant's testimony credible they were unable to afford private health insurance but were able to pay their car loan in full in the amount of \$4,102.22. (Testimony). Notwithstanding the same, I do find, however, that the Appellant met the hardship requirements from January-July, and they were forced to take distributions from their 401k plans to meet basic monthly expenses. (Testimony, Exhibit 2(a)). Accordingly, I find that the Appellants have met the hardship criteria for those six (6) months, and that purchasing health insurance would have caused the Appellant to experience financial hardship during those six (6) months only. 956 CMR 6.08 (1) (e) & (3). I also find that the mandate has not been lost on the Appellants as they obtained ESI when they were eligible.

Accordingly, in order to mitigate the harshness of a full penalty and 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 in part** and the penalty is reduced to two (2) months for each Appellant.

PENALTY ASSESSED

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

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-230

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: July 10, 2024
Decision Date: July 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on May 6, 2024. 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:	Statement of Grounds for Appeal 2023 Signed by Appellant on 3/30/2024.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal dated 3/27/2024.	(1 P).
Exhibit 2(b):	Documents including Lon repayment expenses submitted in Support of Appeal.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 6/7/2024.	(2 PP).

The record was left open until July 29, 2024, for the Appellant to submit proof of documentation from his Employer or Insurer and any other documents showing proof of ESI coverage.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single, age 27 in 2023 had 0 dependents in 2023 and lived in Middlesex County. (Exhibit 1).
2. The Appellant testified he had Employer Sponsored Insurance (ESI) Plan coverage in November and December. (Appellant's Testimony, Exhibit 2(a)).
3. The Appellant testified that he worked part time from January until September and was not offered ESI. (Appellant's Testimony).

4. The Appellant's Federal Adjusted Gross Income for 2023 was \$26,146. (Exhibit 1).
5. The Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed against this assessment (Exhibits 1, 2).
6. The Appellant credibly testified that he did not investigate Connectorcare because he thought he would be unable to afford coverage. ((Appellant's Testimony).
7. According to Table 3, the Appellant could have afforded \$61 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$312 per month.
8. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
9. The Appellant testified his monthly living expenses in 2023 included: Assistance with Rent/Utilities: \$500, Car Payment: \$330; Car Insurance: \$190; Gas: \$200 Cell Phone: \$90; Food/Incidentals: \$400, Student Loans: \$722, totaling \$2,482. (Testimony, Exhibits 2(a)-(b)).
10. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with his appeal that during 2023: the individual mandate did not apply to him because they were unable to afford coverage because of a hardship (Testimony, (Exhibits 2, 2(a)-(h) and Appellant Testimony).

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 2023: \$26,146 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2023 the Appellant could have afforded \$61 per month. According to Table 4, the Appellant, age 26, and with 0 dependents and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$312.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that he was not offered ESI from January to September in his part time employer and had ESI in November and December at a cost of \$120 a month. (Appellant's Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). Based upon the facts summarized above, I find that the Appellant did not have access to ESI but testified he was covered by ESI in November and December 2023. (Testimony, Exhibit 2(a)).

Given that public sponsored insurance was available to the Appellant during the time he was being penalized, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could not have afforded ESI at \$61 per month during the times he was working part time from January to July where his hours were varied, and he was paid \$28 an hour and also given his monthly expenses of \$2,482. His adjusted gross income in 2023 was \$26,146. (Testimony, Exhibit 2(a)). Accordingly, I find that the Appellant has met the hardship criteria and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

Accordingly, 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 in full** and the penalty is waived.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-325

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 19, 2024

Decision Date: August 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant household consisted of the Appellant Husband and Spouse (“Appellant,” “Appellants”) appeared at the hearing, which was held by telephone on August 19, 2024. The Appellant Spouse (“Spouse”), who was not being penalized, also appeared. 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 Appellants testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2023 Signed by Appellant on 4/12/2024. (3 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 7/11/2024. (2 PP).

The record shows, and I so find:

1. The Appellants, married filing jointly filed a 2023 Massachusetts tax return filed with a family size of 2, were ages 32 and 30 in 2023, lived in Hampden County, and had one (0) dependents. (Exhibit 1).s
2. The Appellants were married in October 2023. (Exhibit 1, Testimony).
3. The Appellants’ Federal Adjusted Gross Income for 2023 was \$46,978. (Exhibit 1).
4. The Appellant Husband, who is being penalized for twelve (12) months, testified that he was not offered Employer Sponsored Insurance (“ESI”) from his employer. (Testimony).

5. The Appellant's Spouse, who is not being penalized, was covered by her Employer's ESI and paid approximately \$225 per month for ESI. (Exhibit 1, Testimony).
6. The Appellant Husband testified that he started his own Company-LLC in March 2023 and had significant capital expenses for equipment and netted approximately \$15,000 in income through his LLC. (Testimony).
7. The Appellant's Spouse testified her spouse was unable to enroll under the open enrollment period after they were married in October 2023 and that the premium for a family plan of approximately \$500 per month is unaffordable. (Appellant Spouse Testimony).
8. The Appellant Husband did not look into obtaining Connectorcare because he was starting a new business, and it would be unaffordable given his net income of approximately \$15,000 in 2023. (Testimony, Exhibits 2).
9. According to Table 3 Appellant Husband could have afforded \$289.70 per month for an individual health insurance plan in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$342.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
10. The Appellants would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$54,930.00 for a family of two (3). (See Table 2 of Schedule HC 2023).
11. The Appellants testified their monthly living expenses in 2023 included: Rent and Utilities: \$1,150, Food: \$800.00; Internet/Cell: \$300; Student Loans: \$200; Credit Cards: \$300, totaling \$2,750. (Testimony, Exhibits 2).
12. The Appellants annual net take home pay was approximately \$36,500. (Appellants' Testimony).
13. The Appellant Husband testified he does not have insurance in 2024. (Testimony).
14. The Appellants also had out of pocket costs for their wedding and startup business expenses. (Testimony).
15. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. The Appellants have been assessed a tax penalty

for twelve (12) months in 2023. The Appellants have appealed the penalty. (See Exhibits 1 and 2). The Appellants were married in October 2023 and the Appellant's Spouse was not penalized as she had ESI.

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to them because they were unable to afford coverage because of a hardship (Testimony, (Exhibits 2 and Appellants' Testimony). (Exhibit 2, and Appellant Testimony).

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 2023, \$46,978 was less than 300% of the federal poverty level, which for 2023 was \$54,930 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellants could have afforded \$289.70 per month. According to Table 4, Appellants, ages 32 and 30 in Hampden County during the time they were being penalized for not having insurance, could have purchased an individual insurance plan for the Husband at \$342 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellants had access to affordable employer health insurance ("ESI") in 2023. The Appellant Spouse testified that she was eligible for ESI for a family plan at a cost of \$500 per month from her employer. (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 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household

modified adjusted income (MAGI). In this case, the employee's coverage is \$500 per month from October 2023 to December, 2023, which is greater than 9.12% of the Appellant's Adjusted Gross Income of \$46,978. (Testimony). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, the Appellants were not able to afford a family ESI plan for three (3) months when they were married (Appellant Testimony).

Given that neither affordable private insurance was available to the Appellants during the time the Husband was single and after the Appellants' marriage, it must be determined there is no penalty. Notwithstanding same, I find that such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could not have afforded ESI at \$500 per month during the times they were married in October through the remainder of the year, where their net income was approximately \$3,041 per month and their monthly expenses were \$2,750. (Testimony). Accordingly, I find that the Appellants have met the hardship criteria and that purchasing health insurance would have caused the Appellant to experience financial hardship during those months they were being penalized. 956 CMR 6.08 (1) (e) & (3).

Accordingly, 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** and the penalty is waived.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-326

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 19, 2024

Decision Date: August 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 19, 2024. 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:	Statement of Grounds for Appeal 2023 Signed by Appellant on 6/15/2024.	(2 PP).
Exhibit 2(a):	MassHealth Provider Statement dated 4/11/2024.	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 7/11/2024.	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single, age 49 in 2023 had 0 dependents in 2023 and lived in Middlesex County. (Exhibit 1).
2. The Appellant testified he was unemployed until June (Father's Day) 2023 and was on MassHealth. (Appellant's Testimony, Exhibit 2(a)).
3. The Appellant testified that when he was employed, he was eligible for Employer Sponsored Insurance (ESI) after a probationary waiting period. (Appellant's Testimony, Exhibit 2(a)).
4. The Appellant stopped working at the Employer in December 2023. (Appellant's Testimony).
5. The Appellant testified he did not receive unemployment insurance during the time he was unemployed. (Appellant's Testimony).
6. The Appellant's Federal Adjusted Gross Income for 2023 was \$21,749. (Exhibit 1).
7. The Appellant has been assessed a tax penalty for four (4) months in 2023. The Appellant has appealed against this assessment (Exhibits 1, 2).

8. According to Table 3, the Appellant could have afforded \$50.75 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$409 per month.
9. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
10. The Appellant testified his monthly living expenses in 2023 included: Rent, Utility, Food, and Car Insurance Contributions: totaling approximately \$2,300; Cell Phone: \$60; totaling \$2,360. (Appellant's Testimony).
11. The Appellant's monthly net take home pay during the time he was working was approximately \$500 a week, or \$2,000 per month. (Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023> and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with his appeal that during 2023: the individual mandate did not apply to him because he was unable to afford coverage because of a hardship (Testimony, (Exhibits 2, 2(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 his income for 2023: \$21,749 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2023 the Appellant could have afforded \$50.75 per month. According to Table 4, the Appellant, age 49, and with zero (0) dependents and living in Middlesex County during the time he was being

penalized for not having insurance, could have purchased insurance for \$409.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that he was unemployed through June 2023 and was not able to enroll after he became employed during a waiting period. (Appellant’s Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(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 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). Based upon the facts summarized above, I find that the Appellant did not have access to ESI during the period he was working and uninsured. (Testimony, Exhibit 2(a)).

Given that affordable public sponsored insurance and ESI was not available to the Appellant during the time he was being penalized, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08.

I find the Appellant could not have afforded private insurance at \$50.75 per month during the times he was uninsured where he was unemployed through June, 2023 and when he became employed his take home pay of approximately \$2,000 a month was exceeded by his unemployment income was approximately \$4,060 per month and his monthly expenses of \$2,360.00. (Testimony, Exhibit 2). Accordingly, I find that the Appellant has met the hardship criteria and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

Accordingly, 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 in full** and the penalty is waived.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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/her income and employment have not changed, he 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.

FINAL APPEAL DECISION: PA 23-330

Appeal Decision: The penalty is overturned in full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 19, 2024

Decision Date: August 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on August 19, 2024. 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:	Statement of Grounds for Appeal 2023 Signed by Appellant on 4/19/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal submitted with the Appeal.	(2 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 7/11/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2023 Massachusetts tax return filed single with a family size of 1, was age 63 in 2023, lived in Essex County. (Exhibit 1).
2. The Appellant’s Federal Adjusted Gross Income for 2023 was \$30,390. (Exhibit 1).
3. The Appellant credibly testified she was employed in 2 part time jobs, was paid hourly and not offered Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

4. The Appellant testified that she lost MassHealth and was suffering from financial and health hardships since the Pandemic and could not afford public sponsored, or private insurance. (Appellant's Testimony).
5. According to Table 3 Appellant could have afforded \$103.83 per month for health insurance in 2023. According to Table 4 Appellant could have purchased insurance for \$490.00 per month.
6. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family size of one (1). (See Table 2 of Schedule HC 2023, Appellant's Testimony).
7. The Appellant testified that her monthly living expenses in 2023 included: Rent: \$811, Other monthly expenses including food, car, and a cell phone at approximately \$1,500, totaling \$2,311. (Appellant's Testimony, Exhibits 2,2(a)).
8. The Appellant testified her approximate monthly net take home pay was \$2,000. (Appellant's Testimony).
9. The Appellant credibly testified she had to move four (4) times since the pandemic. (Appellant Testimony).
10. The Appellant testified she has Connectorcare and pays \$38.96 per month for the health insurance component and also pays for a dental plan. (Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 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 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to her because the expense of purchasing health insurance during 2023 would have caused the Appellant a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibits 2,2(a) and Appellants' Testimony).

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 2023, \$30,390 was less than 300% of the federal poverty level, which for 2023 was \$40,770.00 for a filing of single separately with a family size of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$ 103.83 per month. According to Table 4, Appellant, age 63 and living in Essex County during the time she was being penalized for not having insurance, could have purchased insurance for \$490 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant credibly testified that she was not offered ESI by either one of her part time employers. (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 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 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. (Appellant’s Testimony).

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

I find the Appellant’s testimony credible that she was not able to purchase insurance at \$103.83 per month given her net monthly income of approximately \$2,000 and the cost of her monthly basic

necessities of approximately \$2,311. (Appellant's Testimony, Exhibits 2, 2(a)). Accordingly, I find that the Appellant met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). I find that the Appellant's assessed tax penalty of three (3) months is waived in full for these reasons.

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**.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: June 14, 2024

Decision Date: Tuesday, August 27, 2024

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of 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 14, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

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Exhibit 4	Consumers Energy Bill (Electricity), dated July 2023	5 pages
Exhibit 5	Authorized Representative Designation, dated 6/7/2024	1 page
Exhibit 6:	Correspondence from Appellant's CPA, dated 6/7/2024	1 page
Exhibit 7:	1095-C Form	2 pages
Exhibit 8:	2023 Form 1099-HC	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Married Filing Separately. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$215,802.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 1,588% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the Appellant was employed as a Employee at the University of Pennsylvania. in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by his employer, at an approximate monthly cost of an unspecified amount. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$215,802.00 was deemed able to pay \$1,438.68 per month for health insurance, or 8.00% of his income.

CONNECTOR APPEALS UNIT



According to Table 4, Appellant, age 33 and living in Suffolk County, could have purchased private insurance for \$326.00 per month.

10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance. (Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The Appellant testified that he had health insurance coverage, but due to a clerical error by his CPA, his 2023 Massachusetts Form 1099 was not submitted accurately. (Appellant's Testimony). He further stated that he possesses a copy of the form, which confirms that he had minimum creditable coverage for the entire year. (Appellant's Testimony).
15. I informed him that I would keep the record open for 60 days to allow him to submit the form to the Health Connector, which he agreed to do.
16. The documentation provided by the Health Connector indicates that the Appellant was a resident for part of the year, with residency beginning on January 1, 2023, and ending on May 31, 2023. See Exhibit 1.
17. On or around Tuesday, August of 2024, I received the Appellant's 2023 Massachusetts Form 1099-HC. The form confirms that the Appellant's date of birth matches the information on file with the Health Connector. It also indicates that the Appellant's health insurance meets minimum creditable coverage standards; however, the coverage was only in effect from January through August. This leaves a four-month period during which the Appellant did not have coverage meeting the minimum creditable standards. See Exhibit 8.

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18. The Appellant has been assessed a penalty for not having health insurance in 2023 for 2 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

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

According to the Health Connector, Appellant had no health insurance in 2023 that met minimum creditable coverage standards. The Appellant also, according to the Health Connector, lived in Massachusetts between January and the end of May in 2023. He has been assessed a tax penalty for 2 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Open Records Request

During the administrative appeal hearing on June 14, 2024, the Appellant testified about his ability to provide documentation supporting his main reason for appealing. Specifically, he stated that he had health insurance coverage, but a clerical error by his CPA resulted in his 2023 Massachusetts Form 1099 not being submitted accurately. He further indicated that he possesses a copy of the form, which confirms

CONNECTOR APPEALS UNIT



that he had minimum creditable coverage for the entire year. I informed him that I would keep the record open for 60 days to allow him to submit the form to the Health Connector, which he agreed to do.

At the conclusion of the hearing, the hearing officer granted the Appellant a 60-day period to submit any additional documents to the Health Connector to substantiate his claims. The Appellant provided the form within the specified timeframe, and it confirmed that he had health insurance coverage during his residency in Massachusetts. As a result, his two-month tax penalty is waived. See Exhibit 8.

Conclusion

The Appellant has demonstrated that he had health insurance coverage during his residency in Massachusetts. Therefore, the 2-month penalty is waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-275

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 5, 2024

Decision Date: August 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 5, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (w/ attachment) (4 pages)

FINDINGS OF FACT

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

1. Appellant was 36 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on her 2023 state income tax returns and confirmed at the hearing, equaled \$156,993.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with his 2023 state income taxes that she did not have health insurance at any point in that year.
6. However, at the hearing, Appellant credibly testified that, throughout 2023, she had been insured through her employer.
7. She produced a form sent to her by her employer stating that the employer had provided her with creditable insurance during the year. See Exhibit 3 (Form 1095-C).
8. The evidence establishes that Appellant was in fact insured during the entire year.
9. Appellant stated that she had filed her taxes through a commercial tax preparer and she believed that preparer made an error in preparing the tax returns. She was not aware of the error until she was assessed a penalty for not having insurance.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

As a threshold matter, I must determine whether Appellant was in fact uninsured in 2023. If she was insured, of course, she would not be subject to the individual mandate penalty.

In this case, Appellant testified credibly that she had insurance through her employer, which was one of the largest hospitals in the Commonwealth. Appellant was a full-time regular employee of that hospital, and thus would have been eligible for insurance as an employment benefit. She produced corroborating documentary evidence, consisting of the 1095-C form that her employer provided to her stating that the employer offered insurance in 2023. She explained why she filed a tax return stating that she was uninsured, attributing that to an error made by the tax preparer. In short, I conclude that Appellant was insured in 2023 and that the tax return, which said otherwise, was erroneous. Accordingly, Appellant should not be assessed a penalty for being uninsured.

As a result, I am allowing the appeal and waiving the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-278

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 5, 2024

Decision Date: August 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 5, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (12 pages)

FINDINGS OF FACT

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

1. Appellant was 30 at the end of 2023. Exhibit 2.
2. Appellant lived in Nantucket County in 2023. Exhibit 2.
3. Appellant filed her taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on her 2023 state income tax returns and confirmed at the hearing, equaled \$39,047. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2023 state income taxes, and confirmed at the hearing, that she did not have health insurance at any point in 2023. Exhibit 2.
6. In July 2022, Appellant started a new job working in the hospitality industry. When she was initially hired, she believed that she would be eligible for health insurance through her employer after 60 days of employment. However, she was subsequently informed that she was considered a part-time employee and thus not eligible for health benefits.
7. In August 2023, Appellant was promoted to a different position that was considered eligible to receive benefits. She asked her supervisor several times about how to sign up for health insurance. She produced records of emails with her supervisor and with corporate management asking for information on how to sign up. See Exhibit 3 (attachments). She never received an adequate response.
8. In January 2024, she left that job and obtained another job, through which she was finally able to obtain health insurance. She was insured as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have health insurance for part of 2023, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

Appellant was not provided insurance through work at any point in 2023. First, she was considered to be in a position that was not eligible for benefits. Subsequently, she was considered eligible for benefits, but was never given the opportunity to enroll through her employer. Thus, Appellant could not obtain affordable insurance through employment.

Further, Appellant could not have afforded to purchase health insurance in the non-group market under affordability standards established by the Health Connector board pursuant to Chapter 111M. Under those standards, an individual like Appellant who was in a household of one person and had income of \$39,047 was deemed able to pay only 4.85 percent of income on health insurance. (I obtain that percentage figure from Table 3 of the instructions for the 2023 Schedule HC). In this case, that amounts

to \$1,893 annually or \$157 a month. During 2023, a person like Appellant who lived in Nantucket County and was 30 years of age would have had to pay a premium of at least \$406 a month to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

However, Appellant would have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant’s household income during 2023 was \$39,047 and therefore she was income-eligible for Connector Care.

Because Appellant could have obtained affordable health insurance but didn’t, I must determine whether she has stated sufficient grounds to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. In this case, Appellant was expecting to obtain insurance through her employment. Through no fault of her own, she was unable to enroll in that insurance. The communications with her employer that she provided indicated that she was making an effort throughout the year to obtain insurance, but she was thwarted by the employer’s lack of adequate response. Further, I take into consideration the fact that she obtained health insurance at the start of 2024 when she obtained a new job that offered it. In light of these factors, I will exercise my discretion and waive the penalty assessed against Appellant.

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-279

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 5, 2024

Decision Date: August 15, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on August 5, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 36 at the end of 2023. Exhibit 2.
2. Appellant lived in Norfolk County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$45,572. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2023 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he did not have health insurance at any point in 2023. Exhibit 2.
6. Appellant worked at two different jobs, both in the food industry, during 2023. Neither of them offered him health insurance.
7. Further, during 2023, he was unemployed from August through November.
8. During 2023, Appellant incurred some medical expenses as a result of an automobile accident. Because he was uninsured, he incurred medical debt, which he then had to pay off over time.

In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2023-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Because Appellant did not have health insurance for part of 2023, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2023 Schedule HC instructions at pages HC 7-9

During 2023, Appellant worked at two different jobs, neither of which offered him insurance as a benefit. Further, he experienced a period of unemployment. As a result, he could not obtain health insurance through work.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant’s was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant’s household income during 2023 was \$45,572 and therefore he was not income-eligible for Connector Care.

Finally, Appellant could not have afforded to purchase health insurance the non-group market under affordability standards under state affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$45,572 was deemed able to afford 6.2 percent of income on

insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$2,825 annually or \$235 a month. During 2023, a person like Appellant who lived in Norfolk County and was 36 years of age would have had to pay a premium of at least \$335 a month to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

In sum, Appellant could not have obtained affordable insurance through employment, through government-subsidized insurance, or through the non-group market. Because Appellant could not have obtained affordable insurance during the time that he was uninsured in 2023, he should not have been subject to the individual mandate penalty. Therefore, I am not required to consider whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. Instead, I will allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 16, 2024

Decision Date: Tuesday, August 27, 2024

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of 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, 2024. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

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Exhibit 3	Correspondence from the Appellant.	1 page
Exhibit 4	W2 for the Appellant	2 pages
Exhibit 5	Online News Story	3 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 55 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Franklin County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$38,841.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 286% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3B (250.1-300% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed as a Supervisor at a Convenience Store in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. Appellant was not offered health insurance by his employer. (Appellant's Testimony).
7. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$38,841.00 was deemed able to pay \$156.98 per month for health insurance, or 4.85% of his income. According to Table 4, Appellant, age 55 and living in Franklin County, could have purchased private insurance for \$512.00 per month.

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10. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

11. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$243.00	<u>Car Insurance</u>	\$100.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$262.00	<u>Gas (Car)</u>	\$154.00	<u>House Maintenance</u>	\$42.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$352.00	<u>Other:</u>	
<u>Heat</u>	\$17.00	<u>Cell Phone</u>	\$30.00	<u>Car</u>	\$0.00
<u>Electricity</u>	\$33.00	<u>Household & Toiletries</u>	\$15.00	<u>Clothing</u>	\$30.00
<u>Gas/Transportation Costs</u>	\$154.00			<u>Total:</u>	\$1,278.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,236.75. His necessary expenses were determined to be \$1,278.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,425.09 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.

13. Appellant's statement of grounds for appeal was on the basis of:

- a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance. (Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential

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

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expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
16. According to his testimony, the appellant has appealed the tax penalty imposed for not having appropriate health care coverage in 2023. The appellant contends that his decision not to secure coverage was based on information he had from approximately four years ago, which led him to believe that he would not qualify for subsidized health care. (Appellant's Testimony).
17. During the hearing, the appellant admitted that he did not undertake any efforts to verify this belief or to explore his eligibility for subsidized coverage in any meaningful way. (Appellant's Testimony).
18. Instead, he relied on his assumption that he would not have access to subsidized health care and, consequently, did not apply for it, despite being aware of the requirement under the Massachusetts Individual Mandate Law to maintain such coverage. (Appellant's Testimony).
19. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to his testimony.

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by

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

Appellant had no health insurance in 2023. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (Appellant's Testimony).

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.85%.

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

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Based on the information provided, the Appellant qualifies for ConnectorCare, specifically Plan Type Plan Type 3B in tax year 2023.

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In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 3B through the ConnectorCare program. The coverage year 2022's lowest monthly premium for Plan Type 3B is \$132. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 285.81% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

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

Appellant's Engagement with the Health Connector

The Appellant testified that he did not apply through the Health Connector in tax year 2023 because he believed he would not be eligible for subsidized health insurance coverage. He admitted that he made no efforts to investigate the information he received four years ago that led him to this belief. Moreover, the Appellant blatantly admitted during the hearing to violating the very law for which he was appealing the associated fine. The lack of supporting documentation significantly hampers the Appellant's ability to substantiate his claims and suggests insufficient engagement with the Health Connector's processes. The Statement of Grounds form explicitly requests that appellants provide any and all available documentation to support their claims; in this instance, the Appellant failed to provide any.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$38,841.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$156.98 per month; according to Table 4, Appellant, who was 55 years old in 2023, lived in Franklin County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$512.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

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Considering the Appellant's gross income (\$3,236.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$156.98 per month), private health insurance with a premium of \$512.00 per month was unaffordable for the Appellant. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since the Appellant is eligible for ELIGIBLE for Plan Type 3B in 2023, a financial hardship analysis pursuant to 956 CMR 6.08 (1) is warranted.

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$1,278.00.

With a monthly surplus of \$1,425.09 between income and expenses, and considering the lowest monthly premium for the Appellant's qualifying ConnectorCare plan, based on their income, is an amount that could not be determined from the provided information, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 12-month penalty is upheld.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2023 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been

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overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 16, 2024

Decision Date: Tuesday, August 27, 2024

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of 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, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

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Exhibit 3	Correspondence from the Appellant.	1 page
Exhibit 4	Correspondence from the Health Insurance Provider.	1 page
Exhibit 5	Payment Receipts for Health Insurance for the Appellants	5 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants are a married couple, with the wife being 56 years old at the beginning of 2023. They filed their 2023 Massachusetts tax return jointly. The Appellants have no dependents (Exhibit 1). For the first six months of the year, they shared Employer-Sponsored Insurance provided through the wife's employer.
2. Appellants lived in Middlesex County, MA in 2023 (Exhibit 1).
3. Appellants' Federal Adjusted Gross Income for 2023 was \$153,497.00 (Exhibit 1, Appellants' Testimony). Appellants' Income was 838% of the Federal Poverty level and based on their income, if all other conditions were met, they would be INELIGIBLE based on income for ConnectorCare.
4. In 2023, the wife Appellant was employed as a Product Support Manager for HR Company from January through June in a full-time capacity. During this period, both Appellants were covered under her Employer-Sponsored Insurance. (Appellant's Testimony).
5. Later in 2023, the wife Appellant changed jobs, obtaining a position as a Payroll Implementation Specialist from July through December at a Payroll Outsourcing Company. This job change affected the couple's health insurance coverage, as it was previously provided through the wife's employment at her prior HR Company.
6. The wife Appellant's new employer, the Payroll Outsourcing Company, did not offer Employer-Sponsored Insurance to employees outside of their California corporate base, according to the Appellant's Testimony. This left the Appellants without access to employer-provided health insurance following the wife's job change in July 2023.
7. The Appellant (wife) was employed throughout the year 2023 and changed jobs in the middle of the year, but she was not unemployed at any time during the year.
8. The husband Appellant is covered by Medicare. (Appellant's Testimony). The wife

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Appellant does not have Employer-Sponsored Insurance but maintains Health Insurance that does not meet minimum creditable coverage standards as of the hearing date. (Appellant's Testimony).

9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
10. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$153,497.00 was deemed able to pay \$1,023.31 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 56 and living in Middlesex County, could have purchased private insurance for \$979.00 per month.
11. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
12. Appellants' statement of grounds for appeal was on the basis of:
 - a. During 2023, you purchased health insurance that did not meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements.
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. One of the Appellants testified that they contacted the Health Connector and attempted to apply for health insurance. During the application process, they were informed that they would not be eligible for subsidized health insurance. (Appellant's Testimony).
16. After pausing their application to consider their options, the Appellants received numerous calls from various insurance companies attempting to sign them up for health insurance. The Appellants assumed these calls originated

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from the Connector and engaged with one of the companies, Premier Health Solutions, apparently based in Frisco, Texas. (Appellant's Testimony).

17. This company, during their phone solicitation, offered health insurance at a lower monthly cost than what the Appellants had seen in the Health Connector marketplace. (Appellant's Testimony). The Appellants inquired whether the offered product would be acceptable in Massachusetts, and according to their testimony, the insurance company indicated it would be. (Appellant's Testimony).
18. However, when the Appellants did not receive confirmation of minimum creditable coverage on their MA Form 1099-HC for the period from July through December, they realized they had been misled. (Appellant's Testimony).
19. The Appellants have been assessed a penalty for not having health insurance in 2023 for 3 months.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to her testimony.

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

The Appellants had health insurance that met minimum creditable coverage standards for 6 months in 2023. They have been assessed a tax penalty for 3 months. They appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through either (1) their employment, (2) the private market, or (3) a government-sponsored

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program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellants because they experienced a financial hardship as defined in 956 CMR 6.08.

Appellants' Employment & Employer Based Insurance

The wife Appellant was employed full-time as a Product Support Manager for HR Company from January through June 2023. During this period, both Appellants were covered under her Employer-Sponsored Insurance (ESI). (Appellant's Testimony)

In July 2023, the wife Appellant changed jobs, becoming a Payroll Implementation Specialist at a Payroll Outsourcing Company, where she worked through December. This job change significantly impacted the couple's health insurance coverage. The new employer, Payroll Outsourcing Company, did not offer Employer-Sponsored Insurance to employees outside of their California corporate base, according to the Appellant's Testimony. Consequently, the Appellants lost access to employer-provided health insurance following the wife's job change in July 2023.

The wife Appellant maintained continuous employment throughout 2023, transitioning directly from one job to another without any disruptions. However, the change in employment resulted in a loss of ESI for both Appellants for the latter half of the year.

It's important to note that while the Appellants had ESI for the first half of 2023, they were left without employer-offered insurance options for the second half of the year. This situation does not preclude the Appellants from obtaining or applying for Connector Care or other insurance options for the period they were uninsured.

ConnectorCare Eligibility

The wife Appellant testified that she applied for Connector Care after losing her Employer-Sponsored Insurance (ESI) in July 2023. However, she was denied subsidized coverage due to her income level. This aligns with the eligibility criteria for ConnectorCare, which considers both the availability of affordable job-based insurance and income thresholds.

To be eligible for ConnectorCare, with its state subsidies and tax credits, an individual must not be covered by affordable job-based insurance, as per the Affordable Care Act standards (see 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B)). Additionally, income must fall within specified limits. Only employer insurance that's both affordable and meets minimum creditable coverage standards can disqualify an individual from receiving assistance through the Health Connector to reduce health plan costs (see 26 CFR § 1.36B-2(c)(3)).

In this case, the Appellants were not disqualified due to the availability of ESI, as the

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wife's new employer did not offer coverage. Instead, their income appears to have exceeded the eligibility threshold for subsidized coverage through ConnectorCare. This situation left the Appellants in a position where they were ineligible for subsidized coverage but still required to obtain insurance that meets minimum creditable coverage standards to avoid a tax penalty.

The Appellant testified they applied through the Health Connector outside of the open enrollment period. In such cases, Massachusetts residents may qualify for a Special Enrollment Period (SEP) due to certain specific life events or loss of coverage. In cases where eligibility for a Special Enrollment Period (SEP) is not met, it is incumbent upon individuals to petition for a waiver from the Office of Patient Protection (OPP).

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

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$153,497.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,023.31 per month; according to Table 4, Appellant, who was 56 years old in 2023, lived in Middlesex County and filed her 2023 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$979.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$12,791.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$1,023.31 per month), the Appellant could have afforded private health insurance with a premium of \$979.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellants were eligible for health insurance through any other government-sponsored program in 2023.

Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellants are appealing involves the reality that

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they purchased HealthCare coverage which they believed to be adequate but which in fact did not meet the state standard for minimum creditable coverage. In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance.

The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty. However, under certain circumstances, this penalty may be waived. The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2.

By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt from the mandate and will not be penalized. The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty.

This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty. Individuals who fail to have MCC during a tax year will face a penalty when they file their taxes. Regulations at 956 CMR 6.08(1) outline considerations for determining whether a taxpayer experienced a hardship, which may exempt them from the penalty.

Hardship bases are similar to those for ConnectorCare premium waiver/reductions, including circumstances such as homelessness, significant unexpected increases in essential expenses, or situations where the cost of MCC would cause the taxpayer to experience a serious deprivation of food, shelter, clothing, or other necessities.

Financial Hardship Analysis

The Appellants did not argue financial hardship in this case. Instead, they testified that they were misled by a health insurance company, which prevented them from purchasing health insurance that met minimum creditable coverage standards.

According to the Appellants' testimony, they attempted to apply for health insurance through the Health Connector. After being informed they were ineligible for subsidized coverage, they received numerous solicitations from insurance companies. Believing these calls were associated with the Health Connector, they engaged with Premier Health Solutions, based in Frisco, Texas. This company offered what appeared to be affordable coverage and assured the Appellants that their product would be acceptable in Massachusetts. The Appellants only discovered they had been deceived when they

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did not receive confirmation of minimum creditable coverage on their MA Form 1099-HC.

Under the authority granted by 956 CMR 6.08 (3), which states: "The Connector shall consider any other grounds that an Appellant may claim demonstrates that he could not afford to purchase health insurance that met minimum creditable coverage standards," I find the Appellants' testimony credible.

The deceptive practices of the insurance company effectively prevented the Appellants from purchasing health insurance that met minimum creditable coverage standards. This situation falls under the "other grounds" provision of the regulation.

Therefore, I will exercise my discretion under 956 CMR 6.08 (3) to waive the Appellants' tax penalty for the months in question. This decision is based on the unique circumstances of their case, specifically the misleading information they received which directly impacted their ability to secure compliant health insurance coverage that would have met minimum creditable coverage standards.

Conclusion

The Appellants have demonstrated grounds for waiver of the tax penalty under 956 CMR 6.08(3), which allows consideration of other factors that prevented them from obtaining health insurance meeting minimum creditable coverage standards. While they did not demonstrate financial hardship as defined in 956 CMR 6.08(1)(e), the credible testimony regarding deceptive practices by an insurance company constitutes valid grounds for waiver. Therefore, the 3-month penalty is waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2023 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

Number of Months Appealed: 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221353

Appeal Decision : Penalty waived in part

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 15, 2024

Decision Date: August 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 15, 2024. The procedures to be followed during the hearing were reviewed with the appellant. The appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified. At the end of the hearing, the record was left open until March 13, 2024 to give the appellant time to submit additional evidence. The appellant did not submit additional evidence as of the date of the writing of this decision. The record is now closed.

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

- Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellant on May 23, 2023 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2022
- Exhibit 3: Notice of Hearing sent to Appellant dated January 5, 2024 for hearing on February 15, 2024
- Exhibit 4: Summary of Benefits and Coverage for Appellant's health plan, 2022
- Exhibit 5: Final Appeal Decision for Tax Year 2021 dated April 22, 2023
- Exhibit 6: Appeals Unit Open Record Request sent to Appellant

FINDINGS OF FACT:

The record shows, and I so find:

1. Appellant was 27 years old in 2022. The appellant filed a 2022 Massachusetts tax return as a single person with no dependents claimed (Exhibit 2, Testimony of Appellant).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 2).
3. Appellant had a Federal Adjusted Gross Income of \$67,865 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant had the same job all of 2022. His employer, a company, offered health insurance. Appellant had coverage all year; Appellant knew that the plan he enrolled in did not meet the Commonwealth's minimum creditable coverage standards. Appellant worked for the same employer in 2021. He had the same coverage

towards the end of 2021 when his coverage under his parents' plan ended (Testimony of Appellant, Exhibit 1 attachment).

5. Appellant paid \$200 a month for his health insurance. Appellant's medical health insurance plan had a \$7,500 deductible and an out-of-pocket maximum of the same amount. The summary of benefits indicates that certain coverage is equal to the plan's deductible. Inpatient and outpatient hospitalization, advanced imaging, lab work and x-rays, urgent care, and emergency room visits are capped at that amount. There was no coverage for mental health or substance abuse services, or for maternity and newborn care (Exhibit 4).
6. In addition to the Medical Plan, the appellant had a Hospital Plan, an Accident Plan, and Critical Illness Plan. The Hospital Plan assisted with out-of-pocket medical expenses and provided a \$500 a day benefit for one hospitalization per year. The Accident Plan filled in gaps in coverage and provided such coverage as \$500-\$1,500 for up to three fractures per accident. The Critical Illness Plan provided for a one-time payment per year for certain conditions. For example, it would pay up to \$5,000 a year if the covered individual suffered a heart attack or stroke. It covered only one condition per year (Exhibit 4).
7. Since the appellant had insurance in 2022 that did not meet the Commonwealth's standards, the appellant has been assessed a penalty for twelve months. Appellant has appealed this assessment (Exhibits 1 and 2, Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$67,865 could afford to pay \$452 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2022 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for utilities in 2022 (Testimony of Appellant).
13. Appellant was not homeless in 2022. He did not fall more than 30 days behind in his rent. Appellant lived with family; he did not pay any rent during the year (Testimony of Appellant).
14. Appellant's monthly expenses for basic necessities never exceeded \$1,300 in 2022. He had the following expenses: rent-\$0.00; food-\$100; car payment-\$485; gas-\$85; car insurance-\$100; student loan payment-\$650; clothing-\$20. He did not pay for heat, electricity, telephone, or internet (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

Appellant had health insurance during 2022 offered by his employer. The insurance, however, did not meet the Commonwealth's minimum creditable coverage standards. The appellant has been assessed a penalty for the whole year. The appellant has appealed the penalty. See Exhibit 1 and 2. The issue on appeal is whether the tax penalty should be waived, either in whole or in part.

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

To determine if the penalty should be waived in whole or in part, we must first consider whether the insurance the appellant had in 2022 substantially met the Commonwealth's minimum creditable coverage standards as set out in 956 CMR 5.00 et. seq. See also 956 CMR 6.08(2)(d). If the coverage did not substantially meet the Commonwealth's standards, we must then consider whether the appellant had access to affordable coverage which did meet the Commonwealth's standards. If he did have access to such coverage, we must then consider whether the appellant experienced a financial hardship such that no coverage was affordable for him. See 956 CMR 6.08 (1-3).

Appellant's health insurance plan had limited coverage with a high deductible of \$7,500 a year. The deductible was more than \$4,000 over the limit set in 956 CMR 5.03(2)(b)(1). The plan offered no coverage for mental health or substance abuse services, or for any medical care related to pregnancy, maternity and newborn care. See Exhibit 4. Based upon these facts alone, I determine that the appellant's plan did not substantially meet the Commonwealth's standards. See citations above. I also note that the appellant knew that the plan did not meet the Commonwealth's standards. See the testimony of the appellant.

We now need to determine if other health insurance which met the Commonwealth's standards and was affordable was available to the appellant. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$67,865 could afford to pay \$452 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Middlesex County, could have purchased insurance for \$277 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2). Appellant could have purchased insurance through the Connector.

Since affordable insurance which met the Commonwealth's standards was available to the appellant, we need to consider if the appellant had a financial hardship pursuant to 956 CMR 6.08.

Appellant had no financial hardship as defined in 956 CMR 6.08 (1)(a, b, d). See the testimony of the appellant which I find to be credible, summarized in the Findings of Fact above.

Appellant also had no financial hardship as defined in 956 CMR 6.08(1)(e) or 6.08(3). His monthly income came to over \$5,000 a month; his expenses for basic necessities never exceeded \$1,300. See the testimony of Appellant which I find to be credible. The cost of purchasing health insurance would not have caused the appellant to experience a serious deprivation of basic necessities. Appellant did not raise any other financial matters to consider during the hearing.

Though Appellant could have purchased affordable health insurance which met the Commonwealth's standards, and though Appellant had no financial hardship, I determine that the Appellant's penalty should be waived for nine of the twelve months for 2022. Until he turned 26, Appellant had coverage through his parents' plan. Once he turned 26, Appellant enrolled in the plan offered to him at work, paying \$200 a month for the coverage. He thought that considering all of the benefits offered, he had coverage that substantially met the Commonwealth's standards. He only learned in late April, 2023 that the coverage did not come close to meeting the standards. See Exhibit 5. Appellant clearly understands the need for coverage. He has been willing to pay for insurance. Based upon these facts, I determine that his penalty should be partially waived.

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

PENALTY ASSESSED

Number of Months Appealed: 12 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 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed a penalty, as listed above, plus the applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Addendum: If his employer is offering the same coverage for 2025, Appellant may wish to consider obtaining insurance through the Connector.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA221383

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 16, 2024

Decision Date: August 22, 2024

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of 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 February 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on May 26, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 9, 2024 for February 16, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return as a single person with no dependents claimed, was 39 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2022 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$61,601 in 2022 (Testimony of Appellant, Exhibit 2).
4. Appellant worked 30 to 60 hours a week as a bartender from January to mid-July in 2022. Appellant was paid by the hour and received tips. Her income varied. Sometimes she earned \$1,000 less in a week than she had earned in other weeks. January and February were particularly "slow." Appellant was not offered health insurance or other benefits through this job (Testimony of Appellant).
5. In July, Appellant changed jobs, though she still worked as a bartender. She was offered health insurance, but the coverage was not effective until Appellant had worked 90 days at the job. Her coverage started on October 1st. The plan met the Commonwealth's minimum creditable coverage standards. Appellant had coverage the rest of the year (Testimony of Appellant, Exhibit 2).

6. Appellant had health insurance from October through December in 2022. She has been assessed a tax credit penalty for six months, January through June. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$61,601 could afford to pay \$410 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Suffolk County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2022 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2022, Appellant, who earned more than \$38,640 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2022, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent payments in 2022 (Testimony of Appellant).
12. Appellant did not receive a shut-off notice for any utility during 2022 (Testimony of Appellant).
13. The appellant had the following monthly expenses for basic necessities in 2022: rent-\$1375; electricity and heat-\$200; internet- \$50; telephone-\$100; food, household products and personal care items-\$1,290; clothing and laundry-\$420; transportation-\$345; student debt payments-\$42; old credit card debt-\$50. Appellant had \$44,000 in student loan debt. She spent \$800 during the year to visit her parent. In addition, Appellant changed apartments in January, 2022. She spent \$500 for moving expenses and had to pay a security deposit and last month's rent for her new apartment (Testimony of Appellant).
14. As of the date of this hearing, Appellant was unemployed and uninsured (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part.

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

Appellant had health insurance which met the Commonwealth's standards from October through December in 2022. Appellant has been assessed a penalty January through June. There is no penalty for July through September since the appellant is entitled to a three-month grace period without penalty prior to obtaining coverage. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2022, the appellant with no dependents claimed with an adjusted gross income of \$61,601 could afford to pay \$410 per month for health insurance. According to Table 4, Appellant, 39 years old and living in Suffolk County, could have purchased insurance for \$298 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2022 Tables 3 and 4, and Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$61,601, more than the income limit for one person (\$38,640). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2022. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment in until October 1, 2022. The appellant had a job from January through June which did not offer health insurance. In July, Appellant got a new job which offered health insurance which met the Commonwealth's standards. Coverage had an effective start date of October 1st. Appellant enrolled in the offered plan. See Exhibit 2 and the testimony of the appellant which I find to be credible.

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

The appellant had the following monthly expenses for basic necessities in 2022: rent-\$1375; electricity and heat-\$200; internet- \$50; telephone-\$100; food, household products and personal care items-\$1,290; clothing and laundry-\$420; transportation-\$345; student debt payments-\$42; old credit card debt-\$50. Appellant had \$44,000 in student loan debt. She spent \$800 during the year traveling to visit her parent. In addition, Appellant changed apartments in January, 2022. She spent \$500 for moving expenses and had to pay a security deposit and last month's rent for her new apartment. See the testimony of the appellant which I find to be credible.

Appellant's expenses for basic necessities came to about \$4,000 a month. Her income, on average, came to \$5,000 before taxes. Appellant also had to spend about \$3,000 for moving expenses which included putting down a security deposit and last month's rent. In January and February, two of the six months for which she has been assessed a penalty, Appellant earned significantly less than in other months. She had credit card debt and \$44,000 of student loan debt. See Exhibit 2 and the testimony of the appellant which I find to be credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), and 956 CMR 6.08(3), the appellant could not afford to purchase health insurance which met the Commonwealth's minimum creditable coverage standards. I also note that Appellant obtained health insurance through a new job effective October 1, 2022.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA212352

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 25, 2024

Decision Date: August 24, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on March 25, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2021 signed and dated by Appellant on May 17, 2022
- Exhibit 2: Appeal Case Information print-outs from Schedule HC 2021, showing dismissal of appeal and vacating of dismissal, April 6, and May 4, 2024
- Exhibit 3: Notice of Hearing sent to Appellant, dated February 14, 2024 for March 25th hearing
- Exhibit 3a: Notice of Hearing sent to Appellant dated March 9, 2023 for April 6, 2023 hearing
- Exhibit 4: Appellant's letter to Appeals Unit regarding vacating of dismissal of appeal dated April 28 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2021 Massachusetts tax return as a single individual with no dependents claimed, was 60 years old in 2021 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2021 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$51,047 in 2021 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed in January and part of February, 2021. Appellant was offered health insurance which met the Commonwealth's minimum creditable coverage standards by her employer. Appellant had this health insurance coverage in January and February. She was then laid off from work because of the pandemic (Testimony of Appellant, Exhibit 2).
5. After the appellant was laid off from her job, she was offered COBRA which would have cost \$500 a month. Appellant felt, being unemployed, she could not afford to enroll in the program (Testimony of Appellant).
6. Appellant was unemployed until the beginning of June when she started work with a different employer. She again was offered health insurance, but she would not be eligible for coverage until she had worked 90 days. She

obtained coverage starting September 1, 2021. The coverage met the Commonwealth's standards. As of the date of this hearing, Appellant still had this coverage (Testimony of Appellant, Exhibit 1).

7. Appellant has been assessed a penalty for three months, March through May, 2021 (Testimony of Appellant, Exhibit 2).

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. According to Table 3 of Schedule HC for 2021, the appellant, a single individual with no dependents claimed with an adjusted gross income of \$51,047, could afford to pay \$340 per month for health insurance. According to Table 4, Appellant, 60 years old and living in Essex County, could have purchased insurance for \$401 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2021, Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2021, Appellant, who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2021, and Exhibit 2).

9. Appellant was not a veteran; she was not eligible for Medicare (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived, either in whole or in part.

G.L. c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority, and so long as it is available and meets the Commonwealth's minimum creditable coverage standards. Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant had health insurance from January through February, and September through December in 2021 which met the Commonwealth's standards. Appellant has been assessed a penalty for three months, March through May. Appellant has not been assessed a penalty for June through August since Appellant is entitled to a three month grace period prior to obtaining insurance in September. See Massachusetts General Laws, Chapter 111M, Section 2. Appellant has appealed the assessment. See Exhibits 1 and 2.

To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months for which Appellant has been

assessed a penalty. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable for the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2021, the appellant with no dependents claimed with an adjusted gross income of \$51,047 could afford to pay \$340 per month for health insurance. According to Table 4, Appellant, 60 years old and living in Essex County, could have purchased insurance for \$401 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2021, Tables 3 and 4, and Exhibit 2.

When the appellant was laid off in February, 2021, she was offered coverage under the COBRA program. Coverage would have cost over \$500 a month. According to Table 3 of Schedule HC for 2021, this coverage was unaffordable for the appellant. See above.

According to Table 2 of Schedule HC for 2021, Appellant who earned more than \$38,280 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2021, and Exhibit 2. Appellant was not a veteran and was not eligible for Medicare. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

Appellant was unemployed during the months for which she has been assessed a penalty. She was laid off mid-February and did not find another job until the beginning of June. She was offered insurance which met the Commonwealth's standards, but she was not eligible until she had worked for 90 days (the beginning of September). See the testimony of the appellant which I find to be credible. Health insurance through employment was unavailable to the appellant from March through August.

The appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2021 from March through August. See discussion above. Appellant's penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance which meets the state's standards, the individual shall not be assessed a tax penalty.

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

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.

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-250

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 15, 2024

Decision Date: July 22, 2024

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of 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, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated June 14, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated March 20, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-seven years old and is single. She lives in Bristol County, Massachusetts.
2. Appellant works in a restaurant business. Appellant did not have enough hours in 2023 to pay her expenses.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,212.00, consisting of rent \$1,000.00, car payment \$309.00, car insurance \$120.00, car gas \$200.00 food \$300.00, clothing \$100.00 toiletries \$30.00, entertainment \$4.000.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" .
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. 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 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$33,355.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Bristol County for a 36 year old single person was \$335.00. The tables reflect that Appellant could afford \$113.96 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in a restaurant business. Appellant did not have enough hours in 2023 to pay her expenses.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “During 2023, 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 2023, 150 percent of the FPL was \$20,385.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$33,355.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$113.96 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$335.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2023. 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 2023 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-298

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 9, 2024

Decision Date: August 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 6, 2024
- Exhibit 4: Written Statement of Appeal Dated April 6, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-three years old and her spouse is twenty-five years old. They live in Bristol County, Massachusetts. Appellants work in the restaurant business.
2. Appellants last had health insurance in 2022 but it did not cover much in health care and they have debt because of that situation but do not have health insurance in 2024. Appellants have a large credit card debt which includes payment for an operation for their dog.
3. Appellants did not have health insurance in 2023 and does not have health insurance in 2024.
4. The Appellants did submit a Statement of Grounds for Appeal-2023 under “ During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”. And “Other. During 2023 other circumstances, such as : applying the Affordability Tables in Schedule HC to you is inequitable”.
5. The Appellants monthly expenses totaled 4,970.00, consisting of rent \$600.00, heat & light \$275.00, internet & cell phone \$220.00, car payments \$687.00 & \$174.00, car insurance \$198.00 & \$112.00, car gas \$160.00 & \$320.00, food 800.00, credit card \$500.00 & \$474.00 clothing \$150.00 toiletries \$200.00, entertainment \$100.00.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. 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 2023.
7. Based on the appellants federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of 113,591.00 was more than \$54,930.00. The monthly premium for health insurance available on the private market in Bristol County for a 32 year old married person was \$683.00. The tables reflect that Appellants could afford 757.27 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.

Appellants last had health insurance in 2022 but it did not cover much in health care and they have debt because of that situation but do not have health insurance in 2024. Appellants have a large credit card debt which includes payment for an operation for their dog.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “During 2022, you purchased health insurance that didn’t meet credible coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements” .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$27,465.00 for a married couple . *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 Appellants 2023 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$113,391.00 in 2023, and Appellants filing status was married . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay

\$757.27 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$683.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellants have not shown that they were precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that they are not exempt from a tax penalty for their non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2023 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-299

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 9, 2024

Decision Date: August 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2024. The procedures to be followed during the hearing were reviewed with the Appellant and her representative who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 1, 2024
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-eight years old and is single. She lives in Worcester County, Massachusetts. Appellant works in an industrial plant.
2. Appellant obtained a new job in August 2022 and received health insurance with her job. She assumed her health insurance would roll over in 2023 and in fact her vision and dental insurance did roll over and she paid that amount monthly. When Appellant became aware she had no health insurance she went to her Human Resources officer to correct this omission, but it was too late to do so.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$1,760.00, consisting of rent \$780.00, cell phone \$25.00, car insurance \$140.00, car gas \$167.00 food \$400.00, clothing \$84.00 toiletries \$17.00, entertainment \$42.00, car repair \$125.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "During 2023, you purchased health insurance that didn't meet creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements". And should have appealed under "Other. During 2023 other circumstances, such as : applying the Affordability Tables in Schedule HC to you is inequitable". I will hear Appellant's appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. 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 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$45,716.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Worcester County for a 27 year old single person was \$312.00. The tables reflect that Appellant could afford \$283.82 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant obtained a new job in August 2022 and received health insurance with her job. She assumed her health insurance would roll over in 2023 and in fact her vision and dental insurance did roll over and she paid that amount monthly. When Appellant became aware she had no health insurance she went to her Human Resources officer to correct this omission, but it was too late to do so.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “During 2023, you purchased health insurance that didn’t meet creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements”. And should have appealed under “Other. During 2023 other circumstances, such as : applying the Affordability Tables in Schedule HC to you is inequitable”. I will hear Appellant’s appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$20,385.00 for a single person . *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$45,716.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$283.82 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$312.00 monthly for coverage. *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that she was precluded from purchasing affordable health insurance during 2023. 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 2023 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-245

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 17, 2024

Decision Date: August 27, 2024

AUTHORITY

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

JURISDICTION

Any person aggrieved by the assessment or potential assessment of the individual mandate penalty may file an appeal, pursuant to the provisions of 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 17, 2024. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (6-12-24) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2023 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-2-24) (with letter and documents) (19 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 40 during 2023, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2023, but for the months of April through December, it did not meet Minimum Creditable Coverage requirements for Massachusetts. (Appellant's testimony, Exhibits 2, 3). Appellant had health insurance through the Health Connector for January through March, and then had it through the employer for the remaining months of 2023. Appellant was not aware that the employer's health insurance did not meet Massachusetts requirements until Appellant filed the 2023 tax return in 2024. Appellant obtained health insurance that did meet MCC as of August 2024. (Testimony, Exhibit 3).
3. Appellant also explained that they had suffered hardship and the tragic loss of their spouse and other difficulties in their home country prior to relocating to Massachusetts and the United States. (Testimony, Exhibit 3).

4. Appellant's Federal Adjusted Gross Income for 2023 was \$40,496.00 (Exhibit 2).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$358.00 for individual coverage. According to Table 3, Appellant was deemed to afford \$163.00.
7. Private insurance was not affordable for the Appellant in 2023. (Schedule HC for 2023).
8. Appellant's AGI was just under 300% of the Federal Poverty Level for a family size of 1, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2023).
9. Appellant claimed that they should be granted a waiver based on the grounds Appellant had health insurance, but it did not meet MCC and Appellant was not aware that it did not meet MCC until Appellant received tax forms from insurance company. (Testimony of Appellant, Exhibit 3).
10. 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 2023 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2023 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 2023 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. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>. The connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

Appellant did have health insurance for 2023, but it did not meet MCC for Massachusetts for the months of April through December. They have been assessed a tax penalty for six months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part,

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

Private insurance was not affordable for the Appellant during 2023. According to Tables 3 and 4 of the HC Schedule for 2023, Appellant, with an adjusted gross income of \$40,496.00 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 \$163.00 per month; according to Table 4, Appellant, who was 40 years old in 2023, from Essex County, and filed the 2023 Massachusetts taxes as single with a family size of 1, would have had to pay \$358.00 for individual coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds Appellant had health insurance, but it did not meet MCC and Appellant was not aware that it did not meet MCC until Appellant received tax forms from insurance company. Appellant obtained health insurance that did meet MCC as of August 2024. 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 2023 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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: PA 23-295

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 9, 2024

Decision Date: August 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 1, 2024
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-five years old and was single in 2023. He lives in Norfolk County, Massachusetts.
2. The appellant works in the security guard business. These jobs have a probationary period or offer no health insurance. Appellant tried to obtain health insurance in 2023 through the Health Connector but could not accomplish this task. Appellant had several jobs in 2023 and could not get health insurance.
3. Appellant does have health insurance in 2024 starting in July 2024.
4. The Appellant's monthly expenses totaled \$3,253.00, consisting of rent \$1,000.00, heat & light \$100.00, internet & cable \$80.00 cell phone \$92.00, car insurance \$140.00, car gas \$150.00, food \$800.00, clothing \$100.00, credit card \$500.00 out of pocket medical expenses \$50.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 "Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you s inequitable" and should have appealed under " During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities". I will hear the appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. 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 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant might have been eligible for subsidized health insurance, because Appellant's income of \$34,223.00 was less than \$40,770.00. The monthly premium for health insurance available on the private market in Norfolk County for a 24 year old single

person was \$312.00. The tables reflect that Appellant could afford \$138.31 This is more than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant works in the security guard business. These jobs have a probationary period or offer no health insurance. Appellant tried to obtain health insurance in 2023 through the Health Connector but could not accomplish this task. Appellant had several jobs in 2023 and could not get health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2023 “ During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$34,223.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$138.31 monthly for health insurance. See 2023 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 \$312.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **APPROVED**, and the 2023 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-295

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 9, 2024

Decision Date: August 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 9, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated July 5, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 3, 2024
- Exhibit 4: Written Statement of Appeal dated April 3, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty years old and has a family size of one. He lives in Barnstable County, Massachusetts.
2. The appellant works in the electrical business as an owner in a two person business.. Appellant indicated that 2023 was a big year for his income. Appellant does not normally make this amount of income. He used some of his income to pay down his debt.
3. Appellant does not have health insurance in 2024. Appellant last had health insurance in either 2014 or 2015.
4. The Appellant's monthly expenses totaled \$3,519.00, consisting of mortgage \$1,800.00, heat & light \$350, internet & cable \$49.00, car insurance \$100.00, car gas \$200.00, food \$800.00, credit card \$150.00, clothing \$70.00, entertainment \$20.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 "Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is Inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. 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 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$119,598.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Barnstable County for a 39 year old with a family size of one was \$351.00. The tables reflect that Appellant could afford \$797.32

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 works in the electrical business as an owner in a two person business.. Appellant indicated that 2023 was a big year for his income. Appellant does not normally make this amount of income. He used some of his income to pay down his debt.

The Appellant did submit a Statement of Grounds for Appeal-2023 “Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is Inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn’t reside in Massachusetts during your period of uninsurance”.

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 2023, 150 percent of the FPL was \$20,385.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 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 2023. 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 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$119,598.00 in 2023, 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 2023 Massachusetts Schedule HC, Appellant could afford to pay \$797.32 monthly for health insurance. See 2023 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 \$351.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has not shown that he was precluded from purchasing affordable health insurance during 2023. 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 2023 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22825

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: April 17, 2024
Decision Date: August 14, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on April 17, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the hearing, the record was left open so that Appellant could submit additional documents. Appellant has submitted additional documents that have been marked as Exhibit 6. The hearing record consists of the Testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents dated March 21, 2023
- Exhibit 3: Correspondence from Health Connector dated March 12, 2024
- Exhibit 4: None
- Exhibit 5: Prior notice to Appellant dated September 12, 2023
- Exhibit 6: Additional documents submitted by Appellant regarding Appellant's health insurance in 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 32 years old in 2022. Appellant filed a Massachusetts 2022 tax return as single with no dependents claimed (Exhibit 1).
2. Appellant lived and worked in Wisconsin for most of 2022 (Exhibit 2 and Testimony of Appellant).
3. Appellant came to Massachusetts briefly and stayed with a friend temporarily after a difficult situation in Wisconsin (Exhibit 2 and Testimony of Appellant).
4. While Appellant was in Massachusetts, Appellant maintained Appellant's primary place of residence and employment in Wisconsin (Exhibit 2 and Testimony of Appellant).
5. While Appellant stayed with a friend in Massachusetts, Appellant worked in Massachusetts on a temporary basis (Testimony of Appellant).

6. Appellant's income for 2024 was \$43,098. Approximately \$8,000 of Appellant's income was earned in Massachusetts, which was reflected on Appellant's Massachusetts W2 and tax return (Exhibit 1 and Testimony of Appellant).
7. Appellant was covered by health insurance from Wisconsin from January 1, 2022 until September 30 2022 (Exhibit 6 and Testimony of Appellant).
8. Appellant obtained new health insurance when Appellant returned to Wisconsin (Testimony of Appellant).
9. Appellant has been assessed a penalty for twelve months for 2022 (Exhibit 1).
10. Appellant filed an appeal on March 21, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

Appellant briefly stayed with a friend in Massachusetts after a difficult situation in Appellant's home state of Wisconsin. Appellant worked on a temporary basis and earned a small amount of income in Massachusetts in 2022. Appellant maintained a residence, and health insurance in Wisconsin during Appellant's stay in Massachusetts. Appellant did not plan to become a resident of Massachusetts. Appellant returned to Wisconsin and continued health insurance in Wisconsin. See Exhibits 1, 2, 6 and Testimony of Appellant, which I find to be credible.

Given these circumstances, I find that the penalty assessed against Appellant for 2022 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2022 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-231

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 12, 2024

Decision Date: August 8, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 12, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Final Appeal Decision in PA17-175 dated 9/20/2018
- Ex. 4—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 35-years-old, is single and does not have children. In 2023, he had minimum creditable coverage (MCC) health insurance for the months of November and December. He resided in Bristol County in 2023. (Testimony, Ex. 2)
2. The appellant was employed by the same employer in 2022 and 2023. The employer did not offer health insurance. He did not have health insurance in 2022 and does not recall if he was assessed a penalty for not obtaining health insurance for that year. (Testimony)
3. In 2023, the appellant investigated health insurance options through the Health Connector and was confused by the choices and information. He looked at three or four plans and could not understand the

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

comparisons. A co-worker assisted with navigating the website and landed up helping him enroll in a plan and pay the premiums for months of November and December. (Testimony, Ex. 2)

4. The appellant lost his job in 2024 and had not enrolled in insurance at the time of the hearing. He is currently employed on a part-time basis and is not eligible for employer health insurance. (Testimony)
5. The appellant was assessed a twelve-month penalty for not having health insurance for the 2017 tax year. He filed an appeal of the penalty with the Department of Revenue and a hearing was held by the Appeals Unit of the Health Connector. Following the hearing, the hearing officer overturned the penalty and determined that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Ex. 3)
6. The appellant filed an appeal of a penalty assessed for the 2019 tax year, but no documents were received by the Department of Revenue. It is not known whether the appellant paid a penalty for any part of that year. (Testimony, Ex. 2)
7. The appellant reported an adjusted gross income of \$40,556.00 on his 2023 federal tax return, and reported that he was single with no dependents. (Ex. 2)
8. In 2023, the appellant had regular monthly expenses of approximately \$2690.00 for rent (\$800.00), heat (\$50.00), electricity (\$125.00), cable and internet service (\$130.00), cell phone (\$100.00), automobile loan (\$355.00), automobile insurance (\$230.00), gasoline (\$200.00), and food (\$700.00). In addition, he had to replace several parts on his car including brakes and coils for approximately \$1500.00.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him in 2023 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant had insurance for the months of November and December, he was assessed and is appealing a penalty of seven months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that he was employed in 2023 and did not have access to employer health insurance. He testified that he investigated insurance options on the Health Connector website and got confused by the information and process. He testified that a friend assisted him with navigating the site and helped him both enroll in a plan and pay the premium for the months of November and December. Finally, he testified that he lost his job in 2024 and has not been enrolled in insurance for any part of the year.

The evidence provided by the appellant established that his income for 2023, \$40,556.00, was less than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income between \$33,976.00 and \$40,770.00 is deemed to be able to afford a monthly premium of \$163.91 (4.85% of \$40,555.00/12). Table 4 of the Premium Schedule indicates that a 34-year-old (the age of the appellant in 2023) in Bristol County (where the appellant resided in 2023) could have purchased private health insurance for \$326.00 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 2023.

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 \$163.91 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 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2023, he incurred basic monthly expenses of approximately \$2690.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$3380.00, the difference of \$690.00 between income and expenses is inadequate to cover a subsidized insurance premium of \$163.91/month, particularly in light of unanticipated expenses which typically arise, such as the appellant's car 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 2023 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is encouraged to revisit the Health Connector website to investigate his eligibility for health insurance for 2025. He is also reminded that the open enrollment period for 2025 runs from November 1, 2024, through January 23, 2025.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-233

Appeal Decision: Penalty Overturned in Part

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 12, 2024

Decision Date: August 9, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 12, 2024, 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—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Final Appeal Decision in PA13-289 dated 4/7/2014
- Ex. 4—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 55-years-old, is single, and does not have children. In 2023, she had minimum creditable coverage (MCC) health insurance for the month of January. She resided in Suffolk County, MA in 2023. (Testimony, Ex. 2)
2. Prior to 2023, the appellant had employer provided health insurance for approximately seven years. (Testimony)
3. Prior to 2023, the appellant has never been subject to a penalty for failure to obtain health insurance. (Testimony)
4. The appellant was laid off from her job in January, 2023, and her employer-provided health insurance was terminated on January 31, 2023. She did not investigate insurance options for the rest of the year

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

because western health care and medicine do not align with her belief system. She does not consume any health care and has no plans to end up in a hospital if something were to happen to her. She enrolled in and paid for employer health insurance prior to 2023 because it was the “path of least resistance”, but never used it. (Testimony, Ex. 1)

5. The appellant has been employed in 2024 and has been enrolled in employer health insurance. (Testimony)
6. The appellant was assessed a five-month penalty for failure to obtain health insurance for part of the 2013 tax year and filed an appeal with the Appeals Unit of the Health Connector. Following a hearing, the hearing officer determined that the appellant had lost her job and her employer health insurance for part of the year and had fallen behind on her mortgage payments. The penalty was overturned in full based on a mortgage arrearage. (Ex. 3)
7. The appellant reported an adjusted gross income of \$82,013.00 on her 2023 federal tax return, and reported that she was single with no dependents. (Ex. 2)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to her in 2023 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she does not believe in western medicine for a myriad of reasons and is an animal rights advocate. She further stated that profit and greed are the driving forces of modern western medicine and that no one should be forced to partake in practices that do not align with his/her beliefs and way of life.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant had insurance for the month of January, she was assessed and is appealing a penalty of eight months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that prior to 2023, she had employer health insurance for seven years and had never been subject to a penalty for failure to obtain health insurance. She testified that she did not investigate health insurance options after she lost her job in January because western health care and medicine do not align with her belief system. She testified that she does not consume health care and previously enrolled in employer insurance because it was the path of least resistance.

The evidence provided by the appellant established that her income for 2023, \$82,013.00, was more than 300% of the federal poverty level (FPL), which for 2023 was \$40,770.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual with no dependents with a federal adjusted gross income greater than \$54,361.00 is deemed to be able to afford a monthly premium of \$546.75 (8.00% of \$82,013.00/12). Table 4 of the Premium Schedule indicates that a 54-year-old individual (the age of the appellant in 2023) in Suffolk County (where the appellant resided in 2023) could have purchased private health insurance for \$475.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2023.

Although private health insurance may have been affordable to the appellant under the law, she does not argue that she experienced a hardship in 2023 which prevented her from failing to get insurance for the months in question. Rather she testified that she is philosophically opposed to western medicine and health care and abstained from investigating insurance options after her layoff because she does not feel that she should be forced to enroll in a system that does not align with her belief system.

The appellant's objections are understood and respected. However, they do not constitute an acceptable reason for ignoring the state mandate to obtain health insurance as long as it is deemed affordable. It is curious that she makes an exception for her beliefs where employer health insurance is involved, and has chosen to enroll in employer insurance for 2024. In light of the appellant's long-term enrollment in insurance prior to 2023, and her current enrollment, the penalty will be reduced to two months. A reduced penalty makes the point that the appellant is expected to comply with the Legislature's requirement that Massachusetts residents must have compliant health insurance.

Accordingly, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for six of the eight months in question. The determination that the appellant is eligible for a partial waiver is with respect to 2023, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 8 Number of Months Assessed: 2

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised that this extension of leniency is for this year only and she should not rely on a similar result if she is assessed and appeals a penalty in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-235

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 12, 2024

Decision Date: August 9, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 12, 2024, 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—2023

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 63-years-old, is single, and has adult children. (Testimony, Ex. 2)
2. The appellant lived in Colorado from January 1, 2023, until the end of February when she moved to Massachusetts. She was employed in Colorado prior to the move and had employer health insurance from January through March, 2023. (Testimony, Exs. 1,2)
3. Prior to the move, the appellant investigated health insurance options through the Health Connector and determined that a monthly premium would have cost approximately \$600.00. She planned to enroll after the move to Massachusetts. (Testimony, Ex. 1)
4. The move from Colorado was financially taxing for the appellant and she struggled for the first few months after her arrival to meet her expenses. Once she felt more secure, she determined that she had

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

exceeded the 60-day time period (special enrollment period) during which she would have been entitled to enroll in insurance, and was not enrolled for the remainder of the year. (Testimony, Ex1)

5. The appellant was employed in Massachusetts subsequent to her move, but the employer did not offer health insurance. (Testimony)
6. The appellant enrolled in health insurance for 2024 at the end of 2023. (Testimony)
7. The appellant inadvertently indicated on her 2023 Schedule HC that she did not have health insurance for the month of January. (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 in 2023 for “other” reasons. She also submitted a letter with her statement in which she stated in part that she used all her savings to make the move from Colorado to Massachusetts, and by the time she was back on her feet, the 60-day special enrollment period for insurance had expired and she had to wait for the next open enrollment period to enroll in health insurance.

The appellant did not have health insurance from April through December and indicated on her Schedule HC that she became a resident of Massachusetts on February 21, 2023. She also inadvertently indicated that she did not have health insurance for the month of January, even though she had employer health insurance in Colorado for the months of January through March. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Based on the information in her Schedule HC indicating her part-year residence and the lack of insurance for January, the appellant was assessed and is appealing a penalty of eight months.

The appellant testified credibly that she lived in Colorado from January through the end of February when she moved to Massachusetts. She further testified that she was employed in Colorado and had employer health insurance from January through March. Finally, she testified that she was financially strapped for the first few months after the move, and by the time she was in a position to pay for health insurance, she had exceeded the 60-day special enrollment period and had to wait until the end of the year to enroll in insurance for 2024.

With respect to the appellant’s residence in the state, the instructions on the 2023 Schedule HC (page HC-2) set forth the following relevant information for part-year residents: “If you moved into Massachusetts during 2023, the mandate to obtain and maintain health insurance applies to you beginning on the first day of the third month following the month you became a resident of [the state].” Accordingly, the mandate applied to the appellant beginning on June 1, 2023, and the maximum number of months for which she could be subject to a penalty is seven—i.e., June through December.

The appellant offered substantial and credible testimony that she planned to enroll in insurance after she moved to the state, but was delayed by difficult financial circumstances caused by the move. By the time she was in a

position to pay for insurance, she had missed the special enrollment period and was unable to enroll until the end of 2023 for 2024. Had she actually applied to the Health Connector for insurance and been denied, she would have been referred to the Office of Patient Protection to obtain a waiver of the special enrollment period. However, she was unaware of that option and assumed that she was blocked from enrollment for the remainder of the year. See 956 CMR 12.10(1).

Based on the totality of the evidence, it is concluded that the appellant established that she planned in good faith to obtain health insurance after the move and did not demonstrate an intent to avoid the matter. The fact that she enrolled in insurance for 2024 supports the conclusion that the mandate to purchase insurance was not lost on her.

Accordingly, 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 waiver is with respect to 2023 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-260

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 15, 2024

Decision Date: August 24, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on July 15, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to provide additional information, which the Appellant so provided. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).
- Exhibit 2: Statement of Grounds for Appeal and supporting documentation (6 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on July 15, 2024 (2 pages).
- Exhibit 4: Open Record Request and July 16, 2024 cover letter from Health Connector (3 pages).
- Exhibit 5: Appellant's response to Open Record request, including August 14, 2024 email from Appellant and August 13, 2024 letter from Appellant's former insurer (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 26 in July 2023. (Exhibit 1).

3. The Appellant resided in Suffolk County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$80,215. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023, other circumstances, such as applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant included with their Statement of Grounds for Appeal an undated health insurance card that stated the Appellant was in a "Select Network EPO" plan. In addition, the Appellant included a written statement that said the following:

During the year of 2023, I was insured by [insurer] through my father's job. Unfortunately, during the year, my insurance was canceled and I was not informed about it. It was only on October 27, 2023 when I had an accident that I discovered at the hospital that my insurance had not been active since July 2, 2023. But it was too late to try to get another insurance at that time of year.

I was not aware of anything, I had not received any notification, no mail, no email, or anything else warning me that my insurance was going to be deactivated. This is the reason why I was not insured for part of the year starting July 2, 2023, the day I turned 26.

It seems like my insurance got canceled the day I turn 26 because that is the age limit to be under a parent's job based insurance. But they should've at least given me a notice or something to let me know that I am not going to be insured anymore but they didn't do it. So how was I supposed to know?

Due to that reason, you should please appeal the penalty against me, because I honestly didn't know that my insurance was canceled. Therefore, I should not be fined for having an insurance because it was not my fault.

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table

2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.

9. The Appellant's AGI of \$80,215 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$80,215, could have afforded to pay \$534 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was \$54,361 or more could have spent 8% of their earnings on health insurance; 8% of \$80,215 is \$6417, and one-twelfth of \$6417 is \$534.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 25 living in Suffolk County in January 2023, cost \$312 per month.
12. The Appellant testified that they had insurance from January to July 2023 through their father's employer.
13. The Appellant testified that their insurance through their father's employer was canceled in July 2023 because they turned 26.
14. The Appellant testified that they did not receive any notice from their insurer that their health insurance would be canceled in July 2023 and that they learned of the cancellation in October 2023, when they had a bicycle accident. The Appellant testified that they gave the hospital their insurance card, and when the hospital ran it, they learned that the insurance had been canceled in July.
15. The Appellant testified that they were not able to enroll in health insurance in October 2023 because it was not the open enrollment period for their employer.
16. The Appellant testified that they enrolled in employer-sponsored health insurance when open enrollment began and that they now have health insurance.
17. I told the Appellant that the extract from their tax returns (Schedule HC, Exhibit 1) indicated that they did not have health insurance for the entire year in 2023. The Appellant testified that they probably made a mistake on their tax returns and that they had health insurance from January to July 2023.
18. I left the record open for the Appellant to provide evidence that they had health insurance meeting Massachusetts' minimum creditable coverage requirements from January to July 2023. I stated in my open record request that if the Appellant did not submit a Form MA 1099-HC, that they should submit documentation that would enable the Health Connector to determine

whether the insurance in which the Appellant was enrolled met Massachusetts' MCC requirements. (Exhibit 4).

19. In response to my open record request, the Appellant submitted an August 13, 2024 letter from their insurer that stated in relevant part that the Appellant "was covered under a(n) EPO plan, effective May 01, 2018 through July 31, 2023." The Appellant did not provide information about what type of benefits were available under this health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 12-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

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

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance meeting MCC standards was available to the Appellant through the private market, through employment, or through a government-subsidized program. If affordable insurance was available, it must be determined whether the Appellant experienced a hardship as defined in 956 CMR 6.08, such that their tax penalty should be waived.

First, I conclude that the Appellant could have afforded to purchase health insurance meeting MCC standards on the private market in 2023. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$534 per month for health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$312 per month and therefore was affordable. Findings of Fact Nos. 10 and 11.

However, the Appellant did not argue that they could not have afforded health insurance meeting MCC standards through the private market. Rather, the Appellant argued that their tax penalty should be waived because they (1) actually had health insurance through their father's employer from January to July 2023, (2) did not know until October 2023 that their health insurance had been canceled in July 2023 because they had turned 26 and were no longer eligible to be enrolled in their father's employer-sponsored health insurance; and (3) could not enroll in health insurance for the remainder of 2023 because it was not open enrollment with their employer. Findings of Fact Nos. 12-14 and Exhibit 2.

I left the record open for the Appellant to provide documentation showing that they were in fact enrolled in health insurance from January to July 2023 that met MCC standards. (Exhibit 4). In response to my open record request, the Appellant provided a letter from their insurer that stated they were enrolled in health insurance from January to July 2023, but they did not provide documentation that would enable me to determine whether this insurance met MCC standards. Finding of Fact No. 19 and Exhibit 5. Notwithstanding this deficiency, I find that the Appellant's testimony credibly established that they had a good faith and genuine belief from January 2023 until October 2023 that they had adequate health insurance. I find that this good faith and genuine belief effectively blocked the Appellant from exploring other health insurance options until October 2023 and that the Appellant's tax penalty for the months of January to October 2023 should therefore be waived.

I further find that the Appellant's tax penalty for the months of November and December 2023 should also be waived because the Appellant did not have access during those months to affordable health insurance meeting MCC standards through employment, the private market, or a government-subsidized program. The Appellant credibly testified that they could not have obtained employer-sponsored health insurance during those months because it was not their employer's open enrollment period. Finding of Fact No. 15. I find that the Appellant also could not have purchased affordable health insurance on the private market during the months of November and December 2023 because the Health Connector's open enrollment for 2023 had closed, and more than 60 days had passed since the Appellant had lost their health insurance, thereby rendering them ineligible for a special enrollment period. 45 CFR § 155.420. Finally, the Appellant could not have purchased health insurance through a government-subsidized program because their AGI exceeded 300% of the FPL. Finding of Fact No. 9.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-month tax penalty in its entirety because the Appellant effectively did not have access to affordable health insurance meeting MCC requirements through the private market, employment, or a government-subsidized program. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-273

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 24, 2024

Decision Date: July 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 14, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 30, 2024.
- Exhibit 4: Appellant's letter in support of this appeal with an attachment.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 55 in July, 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Suffolk County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$171,503 (Exhibit 2).
4. The Appellant had health insurance for the months of January and February but did not have health insurance for the period of March through December in tax year 2023 (Exhibit 2).
5. The Appellant has been assessed a seven-month tax penalty. The Appellant filed an appeal of the assessment in March, 2024 citing circumstances other than financial hardship as the basis of their appeal (Exhibits 2, 3, 4).

6. The Appellant testified that they enrolled in health insurance through the Health Connector in tax year 2022. The Appellant explained that they tried to set up automatic payments but was not able to successfully do that, so the Appellant sent in monthly checks for their premium payments. The Appellant said that Health Connector cashed their monthly checks through June 2023. The Appellant said that they received past due notices a couple of times and called Customer Service. The Appellant was told that they found the payments and were all set. In July 2023 the Appellant received a check from Health Connector in the amount of \$1,449. Again, the Appellant called and was informed that their insurance had been cancelled effective March 2023. The Appellant's credible testimony is supported by a bank record verifying that the Health Connector Processing Center cashed the Appellant's monthly premium check payments for the period of October 21, 2022 through June 23, 2023 (Exhibit 4 and Appellant Testimony).
7. The Appellant testified credibly that they were not aware that they were uninsured until July 2023 when they received the \$1,449 refund check from Health Connector. The Appellant said that they were unable to re-enroll because open enrollment ended, and they were told they would have to wait until December (Appellant Testimony).
8. The Appellant did reenroll in health insurance through another company on December 22, 2023 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant had health insurance for the months of January and February but did not have insurance for the months of March through December in tax year 2023. The Appellant has been assessed a seven-month penalty. The Appellant appealed the penalty in March 2024 citing circumstances other than financial hardship as the basis of their appeal.

The Appellant enrolled in health insurance through the Health Connector for the period beginning January 1, 2023. The Appellant paid their monthly premiums for the months of January through July. The last premium payment was made on June 23, 2024. The Appellant's bank record verifies that the Appellant's checks were cashed and processed by the Health Connector Processing Center. The Appellant had received past due notices on a couple of occasions but was informed by Customer Service that they should ignore the notices since the premium payments were located and processed correctly. In July 2023 the Appellant received a check in the amount of \$1,449 from Health Connector. The Appellant was then informed that their insurance had been cancelled in March 2023 for nonpayment. This was clearly an error. The Appellant had no reason to know their insurance was cancelled since their checks continued to be cashed through June. The Appellant attempted to reenroll in insurance but was told that open enrollment had ended, and they would have to wait until December.

45 CFR § 155 and 956 CMR 12.10(5). For the period of July through December 2023 the Appellant had no access to health insurance due to the improper termination of their insurance in March 2023. Under these circumstances, the Appellant's seven-month penalty is waived in full. See Massachusetts General Laws, Chapter 111M, Section 2 and 956.608 (3).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA23-274

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: July 24, 2024

Decision Date: July 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on July 24, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 14, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 29, 2024, with attachments.
- Exhibit 4: Appellant's letter in support of this appeal.
- Exhibit 5: Form 1095-B 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in May, 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Norfolk County in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$20,496 (Exhibit 2).
4. The Appellant had health insurance that met Massachusetts minimum essential coverage requirements (MCC) for the period of January 1 through August 30 but did not have health insurance for the period of September through December in tax year 2023 (Exhibits 2, 3, 5).
5. The Appellant has been assessed a one-month tax penalty. The Appellant filed an appeal of the assessment in March, 2024 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$20,496 could afford to pay \$48 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Norfolk County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in tax year 2023.
8. The Appellant was financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$20,496 was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
9. The Appellant testified that their adjusted gross income figure does not accurately reflect their financial circumstances for all of tax year 2023. The Appellant explained that they lost their job in August and lost the employer sponsored health insurance at the same time. The Appellant said that they did pick up some occasional work for a day or two here and there but had no steady income for the months of September through December in tax year 2023. The Appellant indicated that they did not collect unemployment compensation and had almost no income during this four-month period. I found the Appellant to be credible (Appellant Testimony).
10. The Appellant testified that they lived with family in tax year 2023 and paid \$300 monthly for room and board. The Appellant verified monthly student loan payments of \$324.25, car insurance of \$105 and gasoline of \$130. The Appellant said that they struggled to meet these expenses with little income during the period of September through December in tax year 2023.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant had employer sponsored health insurance for the period of January through August but did not have health insurance for the period of September through December in tax year 2023. The Appellant has been assessed a one-month penalty. The Appellant appealed the penalty in March 2024.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$20,496 could afford to pay \$48 per month for health insurance. According to Table 4, the Appellant, age 27, living in Norfolk County, could have purchased a private insurance plan for \$312 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would have been eligible for ConnectorCare coverage based upon the household's income that was less than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant was enrolled in employer sponsored health insurance for the period of January through August in tax year 2023. The Appellant's job was terminated, and the Appellant lost this insurance as a result. The Appellant testified credibly that for the period of September through December they were largely without any income and worked only sporadically if an opportunity arose. The Appellant lived with family in tax year 2023 and had responsibility for expenses for room and board, student loans and their car. The Appellant testified credibly that it was difficult to meet these expenses with little to no income during this four-month period. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. 956 CMR 6.08. The Appellant's one-month penalty is waived in full. 956 CMR 6.08.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 1 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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: PA23-282

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 5, 2024

Decision Date: August 8, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 5, 2024. The Appellant Primary Tax Payor did not appear. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 5, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: Statement of Grounds for Appeal dated March 28, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 30 in March 2023 and their Spouse (Primary Taxpayer), age 28 in August 2023 filed their 2023 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Hampden County, MA in 2023 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$153,408 (Exhibit 2).
4. The Appellant Primary Taxpayer had health insurance for all months of tax year 2023 and therefore is not subject to a tax penalty (Exhibit 2).
5. The Appellant had health insurance for the period of July through December but did not have health insurance for the period of January through June in tax year 2023 (Exhibit 2 and Appellant Testimony).

6. The Appellant has been assessed a three-month tax penalty for 2023. The Appellant filed an appeal of the assessment in March 2024 (Exhibits 2, 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. In accordance with Table 3 of Schedule HC for 2023, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$153,408 could afford to pay \$1,022.72 per month for health insurance. In accordance with Table 4, the Appellants with one partner age 30 living in Hampden County, could have purchased private insurance for \$653 per month for a married couple plan (Schedule HC for 2023). Private insurance was affordable for the Appellants in 2023.
9. The Appellants would not have been eligible for ConnectorCare coverage in 2023 because the Appellants' income of \$153,408 was greater than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. The Appellant testified that their parent passed away and they incurred unexpected expenses to settle the estate. The Appellant provided a copy of the death certificate dated July 23, 2022 and listed expenses totaling \$1,725 and "other funeral expenses, legal fees and gas money" (Exhibit 3).
11. The Appellant testified that they moved to the east coast in 2022 so that their spouse could establish a dental practice. The Appellant said that in addition to losing their parent they had moving expenses and were trying to get settled. The Appellant indicated that they own their own business. The Appellant was asked why they were not added to their spouse's health plan and how much it would have cost. The Appellant said that they could not remember why they did not opt into this insurance. The Appellant testified that it would have cost \$400 per month and that was no small amount (Exhibit 3 and Appellant Testimony).
12. The Appellant testified that they paid \$3,000 monthly for rent. When asked about utility expenses the Appellant said that they do not know what they paid but said that oil was high. No expenses were verified (Exhibit 3 and Appellant Testimony).
13. The Appellants did not fall behind in their rent and did not receive any utility shut off notices. The Appellant did not experience a natural disaster or other human caused event that resulted in a substantial increase in expenses in tax year 2023 (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 Appellants filed their 2023 income tax return as a married couple with no dependents. The Appellant Primary Taxpayer had health insurance for all months of tax year 2023 and has not been assessed a tax penalty. The Appellant had health insurance for the period of July through December but did not have health insurance for the period of January through June in tax year 2023 and consequently has been assessed a three-month penalty. The Appellant filed an appeal in March 2024 claiming financial hardship due to the loss of a family member.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$153,408 could afford to pay \$1,022.72 per month for health insurance. According to Table 4, the Appellants with one partner, age 30, living in Hampden County, could have purchased a private insurance plan for \$653 month for a couple plan. See Schedule HC for 2023. Private insurance was affordable for the Appellants in tax year 2023.

The Appellant testified that they could not remember why they did not opt in to their partner's health insurance. The Appellant said that it would have cost \$400 to have them added to the plan and that is no small amount.

The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants' income of \$153,408 that was greater than 300% of the federal poverty level which was \$54,930 for their household of two. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellants in 2023, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The basis for the Appellant's appeal is increased expenses in tax year 2023 due to the loss of a family member. The Appellant's parent passed away on July 23, 2022. The Appellant noted some expenses totaling \$1,725 and "other) misc. expenses. The Appellant also noted expenses associated with moving to Massachusetts, but the move also took place in tax year 2022. While it was undoubtedly very difficult to lose a parent, there is nothing in this administrative record to verify that the Appellant incurred unexpected expenses in tax year 2023 that would have prevented the Appellant from purchasing health insurance for the period of January through June in tax year 2023.

The Appellant testified that they paid \$3,000 monthly for rent in tax year 2023. The Appellant did not verify other living expenses but did state that oil prices were high in 2023. The Appellants did not fall behind in their rent or utility expenses and did not experience a natural or human caused disaster that resulted in significant unexpected expenses. Given the Appellants' income of \$153,408 and the fact that private health insurance was available to the Appellants at a monthly cost of \$653 for a couple plan, the Appellants have failed to demonstrate that purchasing health insurance would have caused the Appellants to experience significant financial hardship such that they could not meet their monthly living expenses in tax year 2023. 956 CMR 6.08. The Appellant's three-month penalty is upheld. See 956 CMR 6.08.

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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-287

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 5, 2024

Decision Date: August 8, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing which was held by telephone on August 5, 2024. Interpreter services were provided at the Appellant's request. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 5, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: The Statement of Grounds for Appeal dated April 8, 2024
- Exhibit 4: The Appellants' letter in support of the appeal, with an attachment.
- Exhibit 5: Final Appeal Decision of 2022 Tax Penalty dated November 23, 2023.
- Exhibit 6: Final Appeal Decision of 2021 Tax Penalty dated September 14, 2022.
- Exhibit 7: Final Appeal Decision of 2017 Tax Penalty dated June 12, 2019.
- Exhibit 8: Final Appeal Decision of 2016 Tax Penalty dated December 29, 2017.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 63 in August 2023 and their Spouse, age 61 in March 2023 filed their Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Essex County, MA in 2023 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$60,238 (Exhibit 2).
4. The Appellants did not have health insurance for any months of tax year 2023. The Appellants have each been assessed a twelve-month tax penalty (Exhibit 2).

5. The Appellants filed an appeal of the assessment in April, 2024 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 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 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellants, filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$60,238 could afford to pay \$374 per month for health insurance. In accordance with Table 4, the Appellants with one person age 63, living in Essex County, could have purchased private insurance for \$979 per month (Schedule HC for 2023). Private insurance was not affordable for the Appellants in 2023.
8. The Appellant testified that their employer offered health insurance but the monthly premium for the Appellant only was \$442.42 and if their Spouse was included it increased to \$1,086.35. The Appellant explained that the Appellant and their Spouse do not have documentation to prove that they are lawfully present in Massachusetts and therefore cannot get health insurance through the Health Connector (Appellant Testimony and Exhibit 4).
9. The Appellants were not eligible for ConnectorCare coverage in 2023 because the Appellants are not lawfully present in Massachusetts (Appellant Testimony, See 45 CFR § 155.305(a)).
10. In tax year 2023 the Appellants did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2023 (Exhibits 2, 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.

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 2023, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$60,238 could afford to pay \$374 per month

for health insurance. According to Table 4, the Appellants with one person age 63 living in Essex County, could have purchased a private insurance plan for \$979 per month. See Schedule HC for 2023. Private insurance was not affordable for the Appellants in tax year 2023.

The Appellant testified credibly that their employer did offer health insurance in tax year 2023 but the monthly premium for the Appellant alone was \$444.42. Adding the Appellant's Spouse increased the premium to \$1,086.35. This is more than the \$374 deemed affordable in accordance with Table 3 of Schedule HC for 2023.

The Appellants would not have been eligible for ConnectorCare coverage in 2023. The Appellants are not US citizens and are unable to provide documentation to verify that they are lawfully present in Massachusetts. They are therefore not eligible for state and federal subsidies. 45 CFR § 155.305(a).

The Appellants had no affordable health insurance available to them in tax year 2023 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty for the Appellants must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellants experienced a financial hardship in 2023.

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Appellant:	Number of Months Appealed: <u> 12 </u>	Number of Months Assessed: <u> 0 </u>
Spouse:	Number of Months Appealed: <u> 12 </u>	Number of Months Assessed: <u> 0 </u>

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-291

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: August 6, 2024

Decision Date: August 8, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on August 6, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2023 (1 page).

Exhibit 2: Statement of Grounds for Appeal (5 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on August 6, 2024 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 63 in July 2023. (Exhibit 1).
3. The Appellant resided in Middlesex County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$134,974. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for the months of September through December 2023. The Appellant was assessed a 1-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." (Exhibit 2). The Appellant handwrote on the Statement of Grounds for Appeal: "I was receiving \$965/pwk as unemployment my mortgage was \$3526.55 /mo." (Exhibit 2).
7. The Appellant also included with their Statement of Grounds for Appeal a bank statement showing that their monthly mortgage payment in 2023 was \$3526.55. The Appellant handwrote on the statement that they received \$965 per week in unemployment compensation and spent \$333.45 per month on food.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. The Appellant's AGI of \$134,974 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$134,974, could have afforded to pay \$899 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was \$54,361 or more could have spent 8% of their earnings on health insurance; 8% of \$134,974 is \$10,797, and one-twelfth of \$10,797 is \$899.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 63 living in Middlesex County in September 2023, cost \$490 per month.
12. The Appellant testified that they were let go from their job in August of 2023 and were not able to secure unemployment compensation until September.
13. The Appellant testified that from September to the end of December, they received \$965 per week in unemployment compensation and that that was their sole source of income during those months.

14. The Appellant testified that they are still unemployed and are selling their house.
15. The Appellant testified that their employer-sponsored health insurance terminated at the end of August and that at the end of August, they explored the possibility of obtaining health insurance through the Health Connector. The Appellant testified that the least expensive plan they saw on the Health Connector cost \$486 or \$519 per month, which the Appellant testified they could not afford because their unemployment compensation just barely covered their mortgage.
16. The Appellant testified that their former employer offered health insurance through COBRA but that it would have cost them \$1200 per month, which the Appellant testified they could not afford.
17. The Appellant testified that they were able to obtain affordable health insurance for 2024 by attesting that their income was zero.
18. The Appellant testified that they estimated they had the following basic monthly expenses in September through December 2023: \$3526.55 for mortgage; \$100 for water (based on \$300 per quarter); \$400 for electricity; \$125 for cable; \$585 for car payment; \$105 for car insurance (based on \$316 per quarter); and \$333.45 for food. These monthly expenses total \$5175.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a 1-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for the months of September through December 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual mandate." The mandate requires every adult resident of Massachusetts to obtain health insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority ("Connector"). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

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

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

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

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that they were unemployed during this period and that it would have cost them \$1200 per month to obtain employer-sponsored health insurance through COBRA. Findings of Fact Nos. 12-14, 16. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay a maximum of \$899 per month for health insurance; as such, the health insurance available to them through COBRA would not have been affordable. Finding of Fact No. 10.

Third, I conclude that although the Appellant theoretically had access to affordable health insurance meeting MCC standards on the private market, such insurance was not actually affordable to the Appellant because the Appellant suffered a hardship. Again, according to the Table 3 of the Schedule HC, the Appellant could have afforded to spend up to \$899 per month on health insurance. Finding of Fact No. 10. According to Table 4 of the Schedule HC, the Appellant could have purchased health insurance meeting MCC standards on the private market for \$490 per month, which therefore was theoretically affordable to them. Finding of Fact No. 11.

I find, however, that health insurance on the private market was not actually affordable to the Appellant because they suffered a hardship. The Appellant credibly testified that during the months that they were uninsured (September through December), their sole income was \$965 per week in unemployment compensation. Finding of Fact No. 13. This totals \$4181 per month. The Appellant also credibly testified that their monthly expenses, which seem reasonable, totaled \$5175 per month. Finding of Fact No. 18. I find that if the Appellant had purchased health insurance, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities.

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

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 1 Number of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-1382

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: February 16, 2024

Decision Date: August 16, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on February 16, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2022 signed and dated by Appellants on May 29, 2023 with letter attached

Exhibit 2: Appeal Case Information from Schedule HC 2022

Exhibit 3: Notice of Hearing sent to Appellant dated January 9, 2024 for February 16, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2022 Massachusetts tax return jointly with no dependents claimed, were 26 and 27 years old in 2022 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Hampden County in 2022 (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2022 was \$164,238 (Exhibit 2, Testimony of Appellant).
4. One of the appellants was a nurse. He was employed all of 2022. He had health insurance which met the Commonwealth's standards all year. The cost was not known to the appellant present at the hearing (Testimony of Appellant).
5. The other appellant was unemployed all year. She had health insurance when she worked, but when she became unemployed, she lost her coverage in 2021. At the beginning of 2022, she and her spouse had some unexpected expenses, so she put off looking for coverage because it would have cost \$700 a month for her to be added to her spouse's plan. By the time she decided to look for coverage, it was too late to be added to her husband's plan. She looked for coverage on the private market, and was told that insurance would cost \$600 to \$700 a month. This appellant was uninsured all year (Testimony of Appellant).

6. The appellant who was uninsured all of 2022 obtained health insurance which met the Commonwealth's Standards in 2023. As of the date of this hearing, she was still insured (Testimony of Appellant).
7. The uninsured appellant has been assessed a tax penalty for twelve months (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, the appellants with no dependents claimed with an adjusted gross income of \$164,238 could afford to pay \$1094 per month for health insurance. According to Table 4, Appellants, 26 and 27 years old and living in Hampden County, could have purchased insurance for \$590 per month for a plan. The uninsured appellant could have obtained coverage for \$295 a month. Coverage through the individual market was affordable for the appellants in 2022 (Schedule HC for 2021, Exhibit 2).
10. According to Table 2 of Schedule HC for 2022, Appellants, with no dependents, earning more than \$52,260, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2022, 956 CMR 12.00 et. seq.).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in mortgage payments in 2022 (Testimony of Appellant).
13. Appellants did not receive a shut-off notice for any utility during 2022 (Testimony of Appellant).
14. Appellants had the following monthly expenses for basic necessities in 2022: mortgage, property taxes, and home owners insurance-\$1,850; electricity-\$150; heat-\$800; water and sewer-\$60; telephone-\$150; internet-\$80; food, personal care items, household items-\$1,300; clothing-\$340; car insurance-\$275; gas-\$640; car payments-\$600; old credit card debt-\$900; eyeglasses-\$36. The appellants also supported one of the appellants' younger sister and her three children, giving them \$1,600 a month. In 2022, the appellants also had to pay \$15,000 in needed home repairs (problem with the electrical system, and a structurally unsafe staircase) and \$4,000 as a downpayment on a car, after their car needed significant repairs. One of the appellants was a college student and in 2022 this appellant spent \$7,500 in tuition (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived, either in whole or in part. One of the appellants had health insurance which met the Commonwealth's minimum creditable coverage standards all year. The other was uninsured all year. The latter has been assessed a penalty for twelve months. Appellants have appealed the penalty. See Exhibits 1 and 2, and Massachusetts General Laws Chapter 111M, Section 2.

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

a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. 45 CFR Section 155.305 and 26 CFR Section 1.36B-2 provide eligibility requirements for advance premium tax credits.

To determine if the Appellants’ penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellants through employment, through the individual 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 appellants because Appellants experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2022, the appellants with no dependents claimed with an adjusted gross income of \$164,238 could afford to pay \$1094 per month for health insurance. According to Table 4, Appellants, 26 and 27 years old and living in Hampden County, could have purchased insurance for \$590 per month for a plan. The uninsured appellant could have obtained coverage for \$295 a month. Coverage through the individual market was affordable for the appellants in 2022. See Schedule HC for 2022, Tables 3 and 4, and Exhibit 2.

One of the appellants had health insurance through his job. The other was unemployed all year. The unemployed spouse could have obtained coverage under her husband’s plan, but she felt the cost was too high at the beginning of the year. By the time the appellants thought they could afford the coverage, the open enrollment period had ended. It is unclear from the record whether the coverage would have been affordable. It would have cost \$700 to add her to the plan. She did not know how much her husband was paying. See the testimony of the appellant which I find credible.

According to Table 2 of Schedule HC for 2022, Appellants, with no dependents, earning more than \$52,260, the income limit for a family of two, would have been ineligible for the ConnectorCare program based upon income. See Exhibit 2, Table 2 of Schedule HC-2022, 956 CMR 12.00 et. seq. There is no evidence in the record that Appellant was eligible for any other government-sponsored plan.

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

In 2022, Appellants earned about \$13,000 a month before taxes. Their expenses for basic necessities came to about \$9,000. This figure does not include the cost of health insurance for the appellant who had coverage. In addition, they had expenses of about \$26,500 for necessary home repairs (electrical and structural work), purchase of a car (their old car was no longer reliable), and tuition expenses (one of the appellants was in college). If we consider the additional expenses pursuant to 956 CMR 6.08(3) which permits the consideration of financial matters raised upon appeal, and take into account the cost of health insurance for the uninsured appellant, the appellants had little or no disposable income after paying for their basic necessities and taxes. The additional cost of purchasing health insurance for the uninsured appellant would have caused the couple to have a deprivation of basic necessities. Pursuant to 956 CMR 6.08(e), Appellants experienced a financial hardship.

Based upon the facts summarized above, I determine that the penalty assessed should be waived. I also note that the appellant who was uninsured in 2022 has had insurance which meets the Commonwealth’s standards since 2023.

The penalty is waived in its entirety.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer