

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-710

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

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

Hearing Date: October 5, 2020

Decision Date: November 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant Husband appeared at the hearing, which was held by telephone on October 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing Dated September 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for the Appeal dated May 29, 2020.
- Exhibit 4: Internal HC Notation re: Appellant Wife.
- Exhibit 5: PA 11-515 Hearing Decision.
- Exhibit 6: PA 13-1463 Hearing Decision.
- Exhibit 7: PA 14-550 Hearing Decision.
- Exhibit 8: PA 16-337 Hearing Decision.
- Exhibit 9: PA 17-92 Hearing Decision.
- Exhibit 10: PA 18-624 Hearing Decision.
- Exhibit 11: HC Appeals Unit Open Record Request.
- Exhibit 12: HC ESI Form completed by Appellant Wife's employer received October 23, 2020.

FINDINGS OF FACT

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

1. Appellant Husband turned 63 years old, Appellant Wife turned 64 years old, and both resided in Plymouth County in 2019. (Exhibit 2).
2. Appellants' filed their Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$61,138. (Exhibit 2).
3. Appellants have appealed assessments of individual mandate penalties in Tax Years 2011, 2013, 2014, 2016, 2017 and 2018.
4. Appellants had the following monthly expenses for basic necessities in 2019, totaling \$2,910 per month: mortgage - \$1,700; heat - \$185; electric - \$200; car payment - \$376; car insurance - \$83; telephone - \$116; food - \$250. (Appellants' Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because neither Appellant had health insurance for the entirety of 2019, the three-month grace period is inapplicable, and Appellants are appealing a twelve-month tax penalty assessed against each of them for 2019. (Exhibit 2). In support of his appeal, Appellants claims that the individual mandate tax penalty does not apply to them because the cost of purchasing health insurance was not affordable for them in 2019, and because they disagree with the individual mandate statute. (Exhibit 2; Appellant Testimony).

The issue before me is whether the twelve-month 2019 Tax Year penalty assessed against each Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to Appellants in 2019. In determining affordability, consideration is given first to the amount Appellants are deemed able to afford for health insurance premiums under the Affordability Schedule,

and second, to the cost of health insurance that was available to Appellants through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellants experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, ages 63 and 64 and living in Plymouth County, \$836 per month to purchase a family plan on the private insurance market. Based on the Affordability Schedule, Appellants filing the Federal tax return as married filing jointly, with no dependents, with an annual Adjusted Gross Income of \$61,138 could afford to pay \$387 monthly for a family health insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. I conclude that private insurance was not affordable for Appellants in 2019.

According to Schedule HC for 2019 Table 2, I find that Appellants' 2019 Adjusted Gross Income of \$61,138 made them ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of 2). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified, and submitted supporting documentation from her employer, that his wife worked part-time in 2019 for an employer who does not offer employer-sponsored health insurance to part-time employees. Accordingly, I find that Appellant Wife did not have access to employer-sponsored health insurance in 2019.

Appellant testified that in 2019 he had two jobs: self-employed and operating his own trucking company, and working part-time/per diem for an employer who did not offer employer-sponsored health insurance. (Appellant Testimony). Appellant testified that in 2019 he did not explore the cost to obtain employer-sponsored health insurance through his business or as a self-employed entity, and reiterating his intentional refusal for the past several years to explore any health insurance options on the open market or by contacting the Health Connector. (Appellant Testimony). Appellant offered no credible reason for failing to investigate his options, other than to state his objection to the individual mandate statute in general and what he characterizes as 'being told what to do'. (Appellant Testimony). Based on the record before me, I find that Appellants have not established that Appellant Husband did not have access to employer-sponsored health insurance in 2019. Appellants have refusal to purchase health insurance since at least 2011, and Appellant Husband currently remains without health insurance coverage. (Exhibits 5-10; Appellant Testimony). Appellant Wife has Medicare coverage as of May of 2020 (Exhibit 4).

A determination must be made whether Appellants experienced a financial hardship such that they could not purchase otherwise affordable health insurance available to them. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or

other necessities, or any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified that in 2019 they did not pay their mortgage late, nor did they receive utility shutoff notices. Appellants had the following monthly expenses for basic necessities in 2019, totaling \$2,910 per month: mortgage - \$1,700; heat - \$185; electric - \$200; car payment - \$376; car insurance - \$83; telephone - \$116; food - \$250. (Appellant’s Testimony). I decline to include as essential expenses the following: Appellant’s monthly motorcycle insurance payment, medical bills incurred in previous years, and monthly medication costs where Appellants have repeatedly failed to obtain or explore health insurance options year after year. Appellants’ approximate gross monthly income in 2019 was \$5,900, well over their monthly expenses for necessities. (Exhibit 2). I conclude that the cost of purchasing health insurance would not have caused Appellants to experience a serious deprivation of basic necessities in 2019, and that Appellants did not experience a financial hardship as defined by the regulation. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Based on the record before me, I conclude that Appellant Wife did not have access to affordable employer-sponsored health insurance in 2019, while Appellant Husband had access to affordable employer-sponsored health insurance. I find that Appellants did not experience a financial hardship as defined by the regulation.

Accordingly, Appellant Husband’s twelve-month penalty is **UPHELD**, and Appellant Wife’s twelve-month penalty is **OVERTURNED**.

PENALTY ASSESSED

Appellant Husband:	Number of Months Appealed: 12	Number of Months Assessed: 12
Appellant Wife:	Number of Months Appealed: 12	Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 9, 2020
Decision Date: November 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 9, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 7/11/2020. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/14/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 52 in 2019, lived in Suffolk County, and had filed taxes as single with a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant had employer health insurance with his full-time employer until he left employment. (Testimony of Appellant).
3. Appellant then found part time employment where he was paid \$12.50 per hour and took home approximately \$158 each week. (Testimony of Appellant).
4. Appellant testified that he did not have access to Employer Health Insurance("ESI") from his part time employer. (Testimony of Appellant).

5. Appellant was not familiar with the Connector. (Testimony of Appellant).
6. Appellant's Federal Adjusted Gross Income for 2019 was \$28,667(Exhibit 1).
7. Appellant has been assessed a tax penalty for two (2) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$800.00, Cell Phone \$50, Food \$301, Public Transportation: \$60, totaling \$1,211. (Appellant Testimony).
9. Appellant also carried a credit card balance of approximately \$2,000(Appellant Testimony).
10. Appellant is now working full time and is eligible for employer health insurance after the 90-day waiting period. (Appellant Testimony).
11. According to Table 3 Appellant could have afforded \$100.33 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$406.00 per month.
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted grounds with his appeal that during 2019 that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

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

To determine if Appellant's penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant

through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that his income for 2019, \$28,667.00, was less than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$28,667 in 2019 and could have afforded \$100.33 per month. According to Table 4, Appellant, age 52 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$406.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was not offered through his employer because he was working part time. 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 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, the Appellant is considered to not have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

Th Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019: Rent: \$800.00, Cell Phone \$50, Food \$301, Public Transportation: \$60, totaling \$1,211.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The Appellant credibly testified that he could not afford \$100.33 per month given his net part time weekly take home pay of \$158. I find that his basic monthly expenses of \$1,211 were subsumed in his annual gross adjusted earnings of \$28,667 and that he would not have been able to afford \$100.33 after paying his monthly expenses. It is concluded that the Appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

Number of Months Appealed: 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 9, 2020

Decision Date: November 20, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 9, 2020. The procedures to be followed during the hearing were reviewed with the Appellant and his Interpreter who were both then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. Appellant through his interpreter testified. The Appellant objected to the following exhibits below entered into the record. The Hearing Officer took notice of the Appellant's objection and after consideration found the documents were relevant, authentic and are admitted.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 7/10/2020. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/14/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was filing his tax returns as married filing separate, was age 40 in 2019, lived in Middlesex County, with zero dependents and a family size of one. (Exhibit 1, Testimony of Appellant).
2. Appellant worked part time in a factory and was not offered Employer Sponsored Insurance("ESI"). (Testimony of Appellant).
3. Appellant testified he did not investigate obtaining public sponsored insurance and that he could not afford it. (Testimony of Appellant).

4. Appellant's Federal Adjusted Gross Income for 2019 was \$50,356 (Exhibit 1).
5. Appellant testified he could not afford insurance because he was supporting his 7 children and "feeding his family," and other family members who were residing in another country. (Appellant Testimony).
6. Appellant did not testify or itemize the amount of the support and how much he was sending to family members. (Appellant Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant testified he is in the process of divorce. (Appellant Testimony).
9. Appellant could not itemize monthly expenses and did not have the amounts of the expenses for basic necessities in 2019. (Testimony of Appellant).
10. According to Table 3 Appellant could have afforded \$335.71 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
11. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2), claiming that the individual mandate did not apply to him during 2019 because 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 and that during 2019. He also adduced testimony that he incurred a significant increase in essential expenses relating directly from the consequences of the sudden responsibility of providing full care for other family member. See 956 CMR 6.08.

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

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

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

The evidence provided by the appellant established that the income for 2019, \$50,536.00, was greater than 300% of the federal poverty level, which for 2019 was \$36,240.00 for a family size of 1. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$50,356 in 2019 and could have afforded \$335.71 per month. According to Table 4, Appellant, age 40 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance once he became eligible to enroll in 2019. The Appellant testified that he worked part time and was not offered Employer Sponsored Insurance.

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

The Appellant was not able to provide testimony to itemize his monthly expenses for basic necessities in 2019. Appellant testified he could not afford health insurance because he was supporting and had to feed his seven children and other family members.

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive him penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI" of \$50,356) and that health insurance was available to him through the private market, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$335.71 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2, Appellant Testimony). Appellant testified he had was supporting his family but was unable to substantiate testimony by providing documentation.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would not have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), it is concluded that the Appellant did not establish through substantial and credible evidence that he could not afford \$335.71 per month, and that he did not experience a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal.

Notwithstanding this, the Appellant also adduced testimony that he was supporting his 7 children. Accordingly, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still 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: PA19-856

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 9, 2020

Decision Date: December 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 9, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 7/14/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Health Connector (PP).
- Exhibit 2(b) Appellant's Supporting email from Employer re : Non MCC Compliance dated 4/3/20(2 PP).
- Exhibit 2(c) Appellant's Supporting email from Employer re : Non MCC Compliance dated 3/18/20 (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/14/2020 (2 PP).

The Record was left open until November 27, 2020 for the Appellant to submit additional documentation including:

1099 C as well as Employer information regarding MCC Non-Compliance

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported she was single, was age 27 in 2019, lived in Middlesex County, and had a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time and was enrolled in an employer sponsored insurance plan("ESI"). (Exhibit 2(a), Testimony of Appellant).
3. The Employee paid \$120 a month for the plan. (Testimony of Appellant).

4. Appellant testified that she was informed by the Employer in April 2020 that the employer recently learned the plan does not meet the meet minimal credible coverage (“MCC”) standards for Massachusetts residents. (Testimony of Appellant, Exhibit 2(b)).
5. The employer indicated the plan meets all of the necessary coverage requirements, except it does not provide maternity benefits to dependent children. (Exhibit 2(b)).
6. Appellant’s Federal Adjusted Gross Income for 2019 was \$65,268 (Exhibit 1).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. According to Table 3 Appellant could have afforded \$435.12 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
9. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with her appeal that during 2019: she purchased health insurance that didn’t meet minimum creditable coverage standards because that is what her employer offered and she felt her circumstances prevented him from buying other insurance that met the requirements. (Exhibit 2).

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

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

The evidence provided by the Appellant established that her income for 2019, \$65,268, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$65,268 in 2019 and could have afforded \$435.12 per month. According to Table 4, Appellant, age 27 and living in Middlesex County during the time she was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through her employer, but that same did not meet minimal credible coverage, as she was informed by her employer. (Exhibit 2(a), Appellant’s Testimony). I find credible the Appellant’s testimony that the ESI premium was \$120 a month and that she found out in April 2020 from her employer that did not meet minimum credible standards because the policy does not provide maternity benefits to dependent children. (Exhibit 2(a), 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 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$65,268 in 2019 and the ESI premium was less 9.86% of \$65,268/12, or \$536.28 per month. However, although the ESI was affordable, as referenced above, the coverage is not considered to meet minimum value standards.

Based upon the facts summarized above, I find that where the Appellant unknowingly paid for ESI that did not meet minimum creditable coverage for offered by her employer, that her circumstances prevented her from buying other insurance that met the requirements, and thus she is not subject to a penalty within the meaning of 956 CMR 6.08 (3).

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

The Appellant’s penalty is, therefore, waived.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-857

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 9, 2020
Decision Date: December 3, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 9, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal Signed by Appellant on 7/15/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence (1 PP).
- Exhibit 2(b) Appellant's Supporting Documentation: emails dated 4/4 and 4/9/2020 (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/14/2020 (2 PP).

The Record was left open for the Appellant to submit mortgage notices, utility termination notices, and documentation regarding 2020 health insurance. The Appellant submitted the following documents:

- Exhibit 4: 2019 Paystubs Week End Dates 3/30/20,
- Exhibit 5: Lender notices regarding overdue payment and resources for assistance: 2/5/19, 6/21/19, 11/19, 12/21/19.
- Exhibit 6: Utility Account Notices: 12/11/19 and 1/10/20

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return and reported she was single, had zero (0) dependents and a family size of one (1). (Exhibit 1, Testimony of Appellant).

2. Appellant testified she changed jobs in October 2018 and signed up on-line for open enrollment period for new employees. (Testimony of Appellant, Exhibit 2(a)).
3. Appellant thought she had coverage, but when she received a notice with her tax forms in April 2019 she discovered that she did not have insurance for November and December of 2018). (Testimony of Appellant).
4. Appellant logged into her employer's portal and discovered that she was not covered. (Testimony of Appellant).
5. Appellant immediately contacted her Human Resources Director and attempted to enroll but could not do so until the open enrollment period in October and could not become eligible until 2020. (Testimony of Appellant).
6. Appellant investigated signing up for the Connector but could not afford the approximate \$300 premium. (Testimony of Appellant).
7. Appellant currently has employer health insurance and pays approximately \$50 per week. (Testimony of Appellant).
8. Appellant did not know the amount of the employer health insurance premium in 2019 for which she thought she enrolled. (Testimony of Appellant).
9. Appellant's Federal Adjusted Gross Income for 2019 was \$64,422 (Exhibit 1).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant had the following monthly expenses for necessities in 2019: Mortgage: \$2,200, Utilities: \$150, Car Lease \$350, Car Insurance \$150, Credit Cards \$100, Groceries: \$301, Internet \$100, Cell Phone: \$ 150, totaling \$3,501. (Testimony of Appellant).
12. Appellant testified she was late on her mortgage and utilities and received notices from the lender and utility companies. (Appellant Testimony, Exhibits 4-).
13. Appellant testified she took home approximately \$700 a week per year after deductions. (Testimony of Appellant).
14. According to Table 3 Appellant could have afforded \$429.48 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$286.00 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with her appeal: Other: applying the affordability tables in schedule HC she was unable to obtain government subsidized insurance. The Appellant also adduced testimony and evidence that during 2019: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. The Appellant adduced testimony and documents that she received overdue mortgage payments notices, receiving a shut-off notice for utilities (Testimony of Appellant, Exhibit 2).

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

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

The evidence provided by the Appellant established that her income for 2019, \$64,422, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$64,422 in 2019 and could have afforded \$429.48 per month. According to Table 4, Appellant, age 38 and living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$286.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through her employer, but that she mistakenly thought she was enrolled after signing up on-line. The Appellant, after learning that she was not enrolled, attempted to enroll with her employer but testified she was not eligible for an open enrollment period and precluded from enrolling in ESI until 2021. 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 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). In this case, the Appellant appears to have access to affordable insurance through the individual market but not through employer sponsored coverage

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

The Appellant testified credibly that she had the following monthly expenses for basic necessities in 2019. \$2,200, Utilities: \$150, Car Lease \$350, Car Insurance \$150, Credit Cards \$100, Groceries: \$301, Internet \$100, Cell Phone: \$ 150, totaling \$3,501. (Testimony of Appellant).

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. Pursuant to 956 CMR 6.08(1)(e) and 956 CMR 6.08(3), it is concluded that the Appellant did establish through substantial and credible evidence that she could not afford \$429.48 per month, and that she did experience a financial hardship within the meaning of 956 CMR 6.08(1)(b)(e), and (3) which allows consideration of financial issues raised by the appellant on appeal. I find that the Appellant could not have afforded \$429.48 per month given her basic monthly expenses of \$3,501 and her net take home pay of \$700 a week. The Appellant corroborated this hardship by providing utility notices which showed she was substantially in the arrears as well as lender notification of resources to assist with paying her mortgage. (Testimony, Exhibits 4-6).

The Appellant also adduced testimony that she did not realize she did not have insurance and when she discovered same, she was precluded from purchasing ESI. The Appellant recognizes the importance of health coverage and obtained ESI when she became eligible. (Exhibit 7).

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

The Appellant's penalty is, therefore, waived.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if her 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: PA19-907

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 19, 2020

Decision Date: November 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 19, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/4/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Health Connector //2020 (1P).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/21/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported she was single with zero dependents, was age 28 in 2019, and lived in Middlesex County. (Exhibit 1, Testimony of Appellant).
2. The Appellant left her employer in February 2019 and was not offered COBRA. (Exhibit 2 (a). Testimony of Appellant).
3. The Appellant worked part time from February 2019 until April 2019 where she was paid \$20 an hour. (Testimony of Appellant)
4. The Appellant was not offered health insurance while employed part time. (Exhibit 2 (a), Testimony of Appellant).

5. The Appellant became employed full time in April 2019 and because of open enrollment was not able to obtain coverage with the employer until January 2020.
6. The Appellant was laid off from her employer in 2020 due to Covid and is currently not employed. (Testimony of Appellant).
7. The Appellant obtained insurance through the Connector in April 2020 and pays \$87/month. (Exhibit 2 (a). Testimony of Appellant).
8. The Appellant's Federal Adjusted Gross Income for 2019 was \$49,512(Exhibit 1).
9. The Appellant has been assessed a tax penalty for eight (8) months in 2019. (Exhibit 1).
10. Appellant had the following monthly expenses for basic necessities in 2019: Rent: \$1,275.00, Utilities: \$100, Cell Phone \$50, Food \$300, Student Loans: \$350, WiFi \$50, totaling \$2,125. (Appellant Testimony).
11. Appellant testified her net take home pay during the time she was working part time was approximately \$500 a week, and \$600 a week when she worked full time. (Appellant Testimony).
12. According to Table 3 Appellant could have afforded \$330.08 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$257.00 per month. (Testimony of Appellant).
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted grounds with her appeal and did produce testimony that Other. During 2019 other circumstances that she was unable to obtain government sponsored-subsidized insurance that the expense of purchasing health insurance was not affordable to her. (See Exhibit 2).

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

M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that her income for 2019, \$49,512.00, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$49,512 in 2019 and could have afforded \$330.08 per month. According to Table 4, Appellant, age 28 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance ("ESI"). The Appellant's credible testimony and the evidence provided by the Appellant left her full time employer in January, was not able to obtain insurance as a part time employee, and was not able to obtain insurance with her new full time employer until January, 2020. In this case, the Appellant is considered to not have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

Appellant credibly testified she had the following monthly expenses for basic necessities in 2019: Rent: \$1,275.00, Utilities: \$100, Cell Phone \$50, Food \$300, Student Loans: \$350, WiFi \$50, totaling \$2,125. (Appellant Testimony). Appellant credibly testified her net take home pay was \$500 a week while employed part time and \$600 a week after she became employed full time. (Testimony of Appellant)

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. The Appellant credibly testified that she could not afford \$330.08 per month given her net part time weekly take home pay of \$600 a week when she became employed full time. I find that her basic monthly expenses of \$2,125 were

subsumed in her net take home pay and that she would not have been able to afford \$330.08 after paying her monthly expenses. The Appellant testified she attempted to obtain Connectorcare but did not qualify under a Special Enrollment Period. The Appellant testified she obtained insurance in January 2020, was laid off, is currently out of work due to Covid. I find that the mandate was not lost on the Appellant as she testified that she obtained Connectorcare in April 2020.

It is concluded that the Appellant established through substantial and credible evidence that she experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-910

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 19, 2020

Decision Date: December 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 19, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/3/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence and Documentation Health Connector on 8/3/2020 (2PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/21/2020 (2 PP).

The record was left open until December 4, 2020 for the Appellant to submit documentation regarding mortgage forbearance and Creditors' Notices.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed head of household with a family size of 3, was age 56 in 2019, lived in Essex County, and had two (2) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$71,580. (Exhibit 1).
3. Appellant had employer health insurance from January and February when his full-time employment ended. (Exhibit 1, Appellant's Testimony).
4. Appellant has been unemployed since March of 2019. (Appellant's Testimony).

5. Appellant was not able to collect unemployment and had received a severance. (Appellant Testimony).
6. Appellant was hospitalized in 2019, applied for MassHealth in 2019 and was not approved but did not see notice that he was denied. (Appellant Testimony).
7. Appellant testified he supports 2 children ages 20 and 25 who live with him. (Appellant's Testimony, Exhibit 1).
8. Appellant has been assessed a tax penalty for seven (7) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2019: Mortgage \$1,600, Utilities: \$500, Phone Internet \$250, Car Insurance \$120, totaling: \$2,470. (Appellant's Testimony).
10. Appellant testified he is unable to afford food and became eligible for food stamps and obtains food from the food pantry. (Appellant Testimony).
11. According to Table 3 Appellant could have afforded \$477.20 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$418.00 per month. (Appellant Testimony).
12. Appellant testified he actively seeking employment but because of COVID-19 it has been difficult. (Appellant Testimony).
13. Appellant testified he has received utility shutoffs. (Appellant Testimony).
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because that 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 and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from March through December. (See Exhibit 1).

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

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

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

The evidence provided by the Appellant established that his income for 2019, \$71,580.00 was greater than 300% of the federal poverty level, which for 2019 was \$62,430.00 for a family of three. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of 71,580 in 2019 and could have afforded \$477.20 per month. According to Table 4, Appellant, age 56 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$418 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. The Appellant credibly testified he was not employed during the months for which he is being penalized and thus did not have access to Employer Sponsored Insurance. (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2019. Mortgage \$1,600, Utilities: \$500, Phone Internet \$250, Car Insurance \$120, totaling: \$ 2,470. (Appellant’s Testimony). (Appellant’s Testimony).

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. Given the Appellant was not employed during the months he was being penalized, he did not have any employment income to pay his monthly expenses of \$2,470 and was unable to afford the cost of purchasing private

insurance for \$477.20 per month. The Appellant credibly testified he was unable to afford food, as well food for his pets. He also testified that he continues to experience hardship with COVID-19 and would be unable to afford a penalty given his basic monthly expenses. This would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony).

The Appellant's penalty is, therefore, waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-911

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 19, 2020

Decision Date: November 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 19, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/2/2020. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/21/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 43 in 2019, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$70,164. (Exhibit 1).
3. Appellant had employer health insurance from January until March 2019 when he lost his job. (Exhibit 1, Appellant's Testimony).
4. Appellant obtained employer health insurance in October 2019 when he became employed again and continues to have insurance. (Exhibit 1, Appellant's Testimony).

5. Appellant attempted to apply for insurance through the Connector but was denied because of income that was counted from his savings. (Appellant Testimony).
6. Appellant did not receive unemployment and needed to use his savings to pay his monthly expenses from April through October when he regained employment. (Appellant Testimony).
7. Appellant testified he paid child support for his child at approximately \$1,500/month. (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for three (3) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant had the following average monthly living expenses in 2019: Utilities: \$250, Phone Internet \$150, Car Insurance \$ 83, Food: \$800, Child Support \$1,500: \$166, totaling: \$2,783. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$467.76 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
11. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because: that during 2019 he purchased health insurance that didn't meet minimum credible coverage. However, the Appellant testified he had health insurance during the time he was employed. The Appellant also adduced testimony and submitted correspondence that 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 and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from April through September. (See Exhibit 1).

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

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

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

The evidence provided by the Appellant established that his income for 2019, \$70,614.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of 70,641 in 2019 and could have afforded \$467.76 per month. According to Table 4, Appellant, age 43 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. The Appellant credibly testified he was not employed during the months for which he is being penalized and thus did not have access to Employer Sponsored Insurance. (Appellant's Testimony).

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

The Appellant had the following average monthly living expenses in 2019. Utilities: \$250, Phone Internet \$150, Car Insurance \$83, Child Support \$1,500, Food: \$800: \$166, totaling: \$2,783. (Appellant's Testimony).

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. Given the Appellant was not employed during the months he was being penalized, he did not have any employment income to pay his monthly expenses of \$2,783 and was unable to afford the cost of purchasing private insurance for \$467.76 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony). The mandate was not lost on the Appellant as he obtained ESI as soon as he regained employment. (Exhibit 1, Appellant Testimony).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA19-912

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 19, 2020
Decision Date: December 7, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 19, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/3/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Mortgage and Utility Statements (3PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/21/2020 (2 PP).

The record was left open until December 4, 2020 for the Appellant to submit documentation regarding Notice of Foreclosure and Utility Shutoffs.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 26 in 2019, lived in Worcester County, and had no dependents. (Exhibit 1, Testimony of Appellant).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$58,165. (Exhibit 1). (Appellant's Testimony).
3. Appellant did not have health insurance in 2019. (Exhibit 1). (Appellant's Testimony).

4. Appellant was employed full time and was eligible for employer sponsored insurance with the Appellant's cost of the premiums were approximately \$300 a month, or a lower HSA plan with an employee share of the premium at \$250 a month. (Appellant's Testimony).
5. Appellant testified he investigated the cost of publicly sponsored insurance but was not eligible because of his income. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant had the following average monthly living expenses in 2019: Mortgage \$1,100/mo., Utilities \$300, Care Payment \$200, Phone \$50/mo., Car Insurance \$ 200/mo., Gas \$120/mo., Credit Cards \$100/mo., Food \$350, Cable \$55, totaling: \$2,475. (Appellant's Testimony).
8. Appellant testified he received shutoff notices from his utility company, his utility was shut off for a day, and that his balance was approximately \$2,000. (Appellant's Testimony).
9. Appellant testified he received late notices from his mortgage company and that he owed a balance of \$3,300. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$ 387.76 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
11. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than \$300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because he experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2019, he received a shut-off notice for utilities, and was more than 30 days in arrears of mortgage payments. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See Exhibit 1).

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

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

The evidence provided by the appellant established that his income for 2019, \$58,165.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$58,165 in 2019 and could have afforded \$387.7 per month. According to Table 4, Appellant, age 26 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$257 per month. Individual coverage was affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019 (“ESI”). The Appellant credibly testified he was eligible for employer sponsored insurance with the employee cost of the premiums were approximately \$300 a month, or a lower HSA plan with employee share of premiums at \$250/month. The Appellant testified he could not afford same given his expenses. (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 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for a plan through the appellant’s employer was approximately \$300. That cost is less than 9.86 percent of the appellant’s projected household MAGI for 2019 (i.e.—9.86 percent of \$58,165.00 is \$/12 or \$477.92/month). Hence, since the cost of employer insurance is less than \$477.92/month, he is considered to have had access to qualifying employer health insurance. See 956

CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). The Appellant is considered to have had access to affordable employer qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

The Appellant had the following average monthly living expenses in 2019: Mortgage \$1,100/mo., Utilities \$300, Care Payment \$200, Phone \$50/mo., Car Insurance \$ 200/mo., Gas \$120/mo., Credit Cards \$100/mo., Food \$350, Cable \$55, totaling: \$2,475. (Appellant's Testimony).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI") of \$58,165, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$387.76 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony).

Notwithstanding the above, the penalty will be reduced to six (6) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the 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 19-930

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

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

Hearing Date: December 3, 2020

Decision Date: December 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing Dated November 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for the Appeal dated August 6, 2020.
- Exhibit 4 : Appellant letter in support of Appeal dated August 6, 2020.

FINDINGS OF FACT

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

1. Appellant turned 38 years old and resided in Middlesex County in 2019. (Exhibit 2).
2. Appellant filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$40,949. (Exhibit 2).
3. In 2018, Appellant had employer-sponsored health insurance meeting Minimum Creditable Coverage ("MCC"). (Exhibit 4; Appellant Testimony).

4. Appellant's employer merged with another entity, and in December of 2018, all employees were required to choose between two new health insurance plans for 2019 coverage. (Appellant Testimony).
5. Appellant enrolled in the less-expensive option, with coverage beginning in January of 2019. (Exhibit 4; Appellant Testimony.)
6. Appellant learned in February or March of 2019 that the insurance plan into which he enrolled did not meet MCC. (Exhibit 4; Appellant Testimony).
7. Appellant's employer informed him that he would have to wait until open enrollment in May of 2019 to enroll in the other plan option, which did meet MCC. (Exhibit 4; Appellant Testimony).
8. Appellant enrolled in the plan meeting MCC in May of 2019, with coverage starting in June of 2019. (Exhibit 4; Appellant Testimony).
9. Appellant had employer-sponsored health insurance meeting MCC from June through December of 2019. (Exhibit 2; Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant claims that he did not learn that the employer-sponsored health plan he enrolled in for 2019 did not meet MCC standards until February or March of 2019, and that he enrolled in the MCC-compliant plan at his first opportunity during open enrollment in May of 2019. (Exhibit 4; Appellant Testimony).

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, Appellant is entitled to a three-month grace period and is appealing a two-month tax penalty for 2019. (Exhibit 2).

The issue before me is whether the two-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance which met MCC standards was available to Appellant in 2019.

In 2018, Appellant had MCC-compliant employer-sponsored health insurance. Appellant credibly testified that after merging with another entity, his newly-formed employer offered two plan options for 2019, indicating to employees that the new plans were comparable to employer's 2018 plan, albeit with a new carrier. (Exhibit 4; Appellant Testimony). Appellant credibly testified that neither his employer nor the new carrier informed him or the other employees that only one of the two plans offered met MCC, and he chose to enroll in the less expensive option. (Exhibit 4; Appellant Testimony). Appellant testified that only after receiving his 1099-HC Form and performing his own research did he learn that the health plan into which he had enrolled for 2019 did not meet MCC. (Exhibit 4; Appellant Testimony). Appellant brought this fact to his employer's attention and was informed he would have to wait until open enrollment in May of 2019 to enroll into the other, MCC-compliant plan, which he did. (Exhibits 2 and 4; Appellant Testimony). Appellant thereafter had employer-sponsored health insurance meeting MCC from June through December of 2019. (Exhibits 2 and 4; Appellant Testimony).

Based on Appellant's credible testimony, including his prior dealings with his employer, supported by his enrolling in the other plan in May of 2019, I conclude that Appellant was unaware, through no fault of his own, that the initial health insurance plan into which he enrolled for 2019 did not meet MCC standards.

Accordingly, Appellants' appeal is **GRANTED** and the two-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-932

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

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

Hearing Date: December 3, 2020

Decision Date: December 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on December 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated November 5, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated August 5, 2020.
- Exhibit 4: Apartment lease documents.

FINDINGS OF FACT

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

1. Appellant turned 55 years old and resided in Norfolk County in 2019. (Exhibit 2).
2. Appellant filed her 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$19,358. (Exhibit 2).
3. Appellant was not working in 2019. (Appellant Testimony).

4. Appellant's reported 2019 income came from investment income, rather than wages. (Appellant Testimony).
5. Appellant had the following monthly expenses for basic necessities in 2019, totaling \$1,618 per month: rent - \$998; heat/hot water - \$35; electric - \$85; food - \$500. (Appellant's Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that purchasing health insurance in 2019 was not affordable for her, and would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 3).

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

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

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 55 and living in Norfolk County, \$418 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$19,358, could afford to pay \$47 monthly for an individual plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that

private insurance was not affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$19,358 made her eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that she had no job and was not working in 2019, and that her reported income was sourced from investment income, rather than wages. (Appellant Testimony). Based on this credible testimony, I conclude that Appellant did not have access to employer-sponsored health insurance in 2019.

When asked why she did not look into obtaining Connector Care in 2019, for which she was eligible, Appellant genuinely seemed not to know that this option may have been available to her. Appellant is encouraged to contact both MassHealth and the Health Connector to see about obtaining coverage, as she is currently without health insurance, and only barely missed the MassHealth eligibility threshold in 2019.

Since Appellant was presumably eligible for Connector Care for 2019, a determination must be made whether Appellant experienced a financial hardship such that she could not purchase otherwise affordable health insurance available to her. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include situations where the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, or any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Appellant testified to having the following monthly expenses for basic necessities in 2019, totaling \$1,618 per month: rent - \$998; heat/hot water - \$35; electric - \$85; food - \$500. (Exhibit 4; Appellant's Testimony). I find that Appellant's 2019 monthly expenses exceed her monthly income, particularly where Appellant credibly testified that she lives with her mother and often needs to pay the entire monthly rental amount of \$1,996 herself. (Exhibit 4; Appellant Testimony). I find that Appellant has sufficiently demonstrated that the cost of purchasing health insurance in 2019 would have caused her to experience a serious deprivation of food, shelter or other necessities. See 956 C.M.R. 6.08.

Based on the record before me, I conclude that in 2019, while Appellant had access to Connector Care, the expense of purchasing health insurance would have caused Appellant to experience a financial hardship as defined by 956 C.M.R. 6.08.

Accordingly, Appellants' appeal is **GRANTED** and the twelve-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA19-953

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 10, 2020

Decision Date: December 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant Wife appeared at the hearing, which was held by telephone on December 10, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/6/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Health Connector Response to Appeal (2 PP).
- Exhibit 2(b) Appellant's Supporting Documentation: Installment Loan, Mortgage Statement, Utility Statements Dental Plan, Earning Statements, Employer Benefits Summary/Enrollment, (2020 (16 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/6/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return, reported they were married filing jointly with a family size of 2, with no dependents. (Exhibit 1, Testimony).
2. Appellants' Federal Adjusted Gross Income for 2019 was \$74,003 (Exhibit 1).
3. Appellants were both offered health insurance through their employers but could not afford same. (Appellant's Testimony).
4. Appellant Wife worked part time at 24 hours a week, was paid \$17.34/hour. (Appellant's Testimony).
5. Appellant Wife's employer policy health insurance premiums were \$185 per biweekly pay period for an individual plan. She did not know the cost of a family plan. (Appellant's Testimony).
6. Appellant Husband's employer sponsored insurance premium's were \$300-\$400 per month, and she did not know the cost of a family plan. (Appellant's Testimony).

7. Appellant Husband is being penalized for not having insurance for 12 months in 2019. (Exhibit 1).
8. Appellant testified they looked into purchasing health insurance through the ConnectorCare but did not qualify because of their income. (Appellant's Testimony).
9. Appellant Wife testified she looked into purchasing private insurance but could not afford the cost of approximately \$300 per month. (Appellant's Testimony).
10. Appellants had the following average monthly living expenses in 2019: Mortgage \$1,943, Utilities \$375, Water \$100, Car Payments \$780, Phone \$100, Car Insurance \$ 250, Gas \$100, Food \$500, totaling: \$4,148. (Appellant's Testimony, Exhibit 2(a)).
11. Appellant testified her husband netted approximately \$530 a week. (Appellant's Testimony, Exhibit 2(a)).
12. Appellant's do not currently have insurance. (Appellant's Testimony).
13. According to Table 3 Appellants could have afforded \$493.35 per month for health insurance in 2019. According to Table 4 Appellant Husband could have purchased insurance for \$350.00 per month.
14. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. The Appellant Husband has each been assessed with a twelve (12) month tax penalty for in 2019. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to them during 2019 because during 2019 they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities, and that they were not eligible for government insurance. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See Exhibit 2, 2(a)(b)).

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

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

The Appellant testified that she investigated health insurance options including a public insurance options but that they were not eligible and that a private plan was unaffordable given their living expenses. (Appellant's Testimony).

The evidence provided by the appellant established that their income for 2019, \$74,003.00 was greater than 300% of the federal poverty level, which for 2019 was \$49,380.00 for a family size of two (2). According to Table 3 of Schedule HC for 2019, the Appellants had an adjusted gross income of \$74,003 in 2019 and could have afforded \$493.55 per month. According to Table 4, Appellant Husband, age 47 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$350 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019 ("ESI"). The Appellant credibly testified her husband was eligible for employer sponsored insurance with the employee cost of the premium for an individual plan was approximately \$300-400 per month. (Appellant's Testimony). The Appellant testified they could not afford same given their expenses. (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 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for a plan through the appellant's husband's employer was approximately \$300-\$400. That cost is less than 9.86 percent of the appellant's projected household MAGI for 2019 (i.e.—9.86 percent of \$74,003.00 is \$513.90/month). Hence, since the cost of employer insurance is less than \$513.90 /month, he is considered to have had access to qualifying employer health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). The Appellant is considered to have had access to affordable employer qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Where the Appellants' had access to affordable employer health insurance, we need to determine if the Appellants experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic

violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if they experienced financial circumstances such that the expense of purchasing health insurance would have caused them to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

Appellants had the following monthly expenses for basic necessities in 2019: Mortgage \$1,943, Utilities \$375, Water \$100, Car Payments \$780, Phone \$100, Car Insurance \$ 250, Gas \$100, Food \$500, totaling: \$4,148. (Appellant's Testimony, Exhibit 2(a)).

The evidence presented by the Appellants in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI") of \$74,003, the Appellants failed to demonstrate that the cost of purchasing private insurance for \$493.35 per month would have caused the Appellants to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony). The evidence presented by the Appellant in this case is insufficient to establish that they experienced a financial hardship within the meaning of 956 CMR 6.08(1) (e).

Accordingly, it is concluded that the Appellants did not establish through substantial and credible evidence that they did experience other circumstances within the meaning of 956 CMR 6.08 (1)(e), (2), (3).

Notwithstanding the above, the penalty will be reduced to six (6) months in order to mitigate the harshness of a full twelve-month assessment.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for four (4) months for which they were assessed.

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA19-954

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 10, 2020

Decision Date: December 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 10, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/10/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Health Connector Submitted with Appeal (1 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/6/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 49 in 2019, lived in Norfolk County, and had no dependents. (Exhibit 1, Appellant's Testimony).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$34,857. (Exhibit 1).
3. Appellant did not have health insurance in 2019. (Exhibit 1, Appellant's Testimony).
4. Appellant was employed part time as a 1099 and W2 employee with different employers who did not offer health insurance. (Appellant's Testimony).
5. Appellant testified he investigated the cost of publicly sponsored insurance through the Connector but could not afford the premiums of \$300 to \$400 per month. (Appellant's Testimony).

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

7. Appellant had the following average monthly living expenses in 2019: Rent \$1,000/mo., Utilities \$60, Cell Phone \$35/mo., Transportation \$90/mo., Food \$300, Dental Expenses (\$600/12) \$50, totaling: \$1,535. (Appellant's Testimony).

8. According to Table 3 Appellant could have afforded \$145.23 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.

9. The Appellant may have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was less than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See Exhibit 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 2019, 34,857.00 was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$34,857 in 2019 and could have afforded \$145.23 per month. According to Table 4, Appellant, age 49 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased insurance for \$350 per month. Individual coverage was not affordable through the individual market for the appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019 ("ESI"). The Appellant credibly testified that he worked as a 1099 independent contractor and part time W-2 employee and not eligible for employer sponsored insurance. 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). The Appellant is not considered to have had access to affordable employer qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

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

The Appellant had the following average monthly living expenses in 2019 Rent \$1,000/mo., Utilities \$60, Cell Phone \$35/mo., Transportation \$90/mo., Food \$300, Dental Expenses (\$600/12) \$50/mo., totaling: \$1,535. (Appellant's Testimony).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI") of \$34,857, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$145.23 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony). The evidence presented by the Appellant in this case is insufficient to establish that they experienced a financial hardship within the meaning of 956 CMR 6.08(1) (e).

Notwithstanding the above, the penalty will be reduced to two (2) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-956

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 10, 2020

Decision Date: December 21, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 10, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 8/5/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Submitted with Appeal (1PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 11/6/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 63 in 2019, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$18,601. (Exhibit 1).
3. Appellant had employer health insurance from January until February 2019 when he lost his job. (Exhibit 1, Appellant's Testimony).
4. Appellant was overwhelmed attempting to meet his financial obligation and deal with creditors, look for employment, and experienced health issues and was unable to investigate insurance through the Connector. (Appellant Testimony).

5. Appellant did not receive unemployment and needed to use his to pay his monthly expenses from April through October when he regained employment. (Appellant Testimony).
6. Appellant testified he became ill and was forced to pay for prescriptions out of pocket. (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for seven (7) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2019: Rent: \$895, Utilities: \$125, Cable: \$126, Phone \$40, Car Insurance \$75, Food: \$125, Gas \$100 or less, Prescriptions \$80, totaling: \$1,566. (Appellant's Testimony).
9. Appellant also had substantial credit card debt that he was unable to pay. (Appellant's Testimony).
10. Appellant net take home unemployment was approximately \$470 a week. (Appellant's Testimony).
11. Appellant received overdue notices from the utility companies. (Appellant's Testimony).
12. According to Table 3 Appellant could have afforded \$ 44.95 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$406.00 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because: that during 2019 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 and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from March through December. (See Exhibit 1).

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

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

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

The evidence provided by the Appellant established that his income for 2019, \$18,601.00 was less than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$18,601 in 2019 and could have afforded \$44.95 per month. According to Table 4, Appellant, age 63 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$418.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. The Appellant credibly testified he was not employed during the months for which he is being penalized and thus did not have access to Employer Sponsored Insurance. (Appellant's Testimony).

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

The Appellant had the following average monthly living expenses in 2019. Rent: \$895, Utilities: \$125, Cable: \$126, Phone \$40, Car Insurance \$75, Food: \$125, Gas \$100 or less, Prescriptions \$80, totaling: \$1,566. (Appellant's Testimony).

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. Given the Appellant was not employed during the months he was being penalized, he did not have adequate income to pay his monthly expenses of \$1,566 and was unable to afford the cost of purchasing public sponsored insurance for \$44.95 per month. This would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony). The

evidence presented by the Appellant in this case is sufficient to establish that he experienced a financial hardship within the meaning of 956 CMR 6.08(1) (e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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 19-377

Appeal Decision: XXX Penalty Upheld ___ Penalty Overturned in Full ___ Penalty Overturned in Part

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

Hearing Date: August 4, 2020

Decision Date: August 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

- Exhibit 1: HC Appeals Unit Notice of Hearing dated July 9, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated March 15, 2020.
- Exhibit 4: Appellants' letter in support of this Appeal.

FINDINGS OF FACT

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

1. Appellant turned 58 years old and resided in Worcester County in 2019. (Exhibit 2).
2. Appellant filed her Federal Income Tax return as single, with no dependents claimed, with an Adjusted Gross Income for 2019 of \$36,141. (Exhibit 2).

3. Appellant did not have health insurance for the entirety of 2019 and has been assessed a twelve-month tax penalty for 2019. Appellant filed an appeal of the penalty assessment in March, 2020. (Exhibit 3).
4. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Healthcare Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
5. In accordance with Table 3 of Schedule HC for 2019, Appellant filing the Federal tax return as single with no dependents claimed, with an annual adjusted gross income of \$36,141 could afford to pay \$151 per month for a single plan. In accordance with Table 4 of Schedule HC for 2019, Appellant, age 58, living in Worcester County, could have purchased private insurance for \$418 per month.
6. Appellant had the following monthly expenses for basic necessities in 2019: rent- \$885; electricity - \$75; cable/internet - \$175; telephone - \$241; food - \$250. (Exhibit 4; Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The Massachusetts legislature enacted the tax penalty to encourage compliance with M.G.L c. 111M, § 2, also called the “individual mandate”, which requires that every adult resident of Massachusetts obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty for each of the months that the individual did not have health insurance as required by the individual mandate. The Connector’s regulations provide for a waiver of the tax penalty in the case of financial hardship. (See 956 C.M.R 6.08).

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

The issue before me is whether the twelve-month 2019 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2019. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual adjusted gross income of \$36,141 could afford to pay \$151 per month for a single plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3.

Based on Schedule HC for 2019 Table 4, I find that it would have cost Appellant, age 58 and living in Worcester County, \$418 per month to purchase a single plan on the private insurance market. I conclude that purchasing individual coverage on the private market would not have been affordable for Appellant. Appellant claims that she looked into Connector Care coverage for 2019, and that the plans offered cost about the same as the employer-sponsored health insurance available to her. I find that Appellant would not have been eligible for Connector Care coverage, as her income was more than 300% of the federal poverty level (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

However, I find that affordable employer-sponsored health insurance was available to Appellant, who testified that in 2019 she simultaneously worked a part-time and a full-time job, and had access to employer-sponsored health insurance in 2019 through her full-time job, at a cost of approximately \$200 per month. (Appellant Testimony).

Appellant readily admits she did not have health insurance in either 2018 or 2019, does not currently have health insurance, and does not intend to obtain health insurance until 2021, offering no credible reason for this decision. (Exhibit 4; Appellant Testimony). (Exhibit 3; Appellant Testimony). Appellant's testimony regarding her appeal of a 2018 penalty assessment is somewhat muddled, in that she claims she was told "they" - presumably the Health Connector - did not receive documentation from her relating to the appeal, but that she was never made to pay a penalty. (Appellant Testimony). Appellant testified candidly and credibly that she finds requiring her to pay a fee for something she does not need right now "crazy", and requiring her to pay a penalty for not having health insurance "unfair". (Exhibit 4; Appellant Testimony).

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

Based on her testimony, I find that Appellant's average monthly take-home pay after taxes in 2019 was \$2100, and she had the following monthly expenses for basic necessities in 2019, totaling \$1,626: rent- \$885; electricity - \$75; cable/internet - \$175; telephone - \$241; food - \$250. (Exhibit 4; Appellant Testimony). While Appellant claims that purchasing health insurance would deprive her of grocery money, I find that after purchasing food for the month, Appellant's take-home pay exceeds her expenses

by almost \$500 per month. (Exhibit 4; Appellant Testimony). Appellant testified that she voluntarily paid for all three of her godchildrens' cell phone bills throughout 2019. (Appellant Testimony). I conclude that Appellant was aware of the individual mandate and the potential of an associated penalty, and chose to prioritize other expenses over compliance with the mandate.

Based on the record before me, I conclude that Appellant did not experience a financial hardship such that Appellant could not purchase otherwise affordable health insurance available to her in 2019.

Accordingly, Appellant's appeal is **DENIED** and the twelve-month 2019 Tax Penalty is **UPHELD**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-465

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: August 25, 2020

Decision Date: September 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone on August 25, 2020. At the end of the hearing, the record was left open until September 15, 2020 for the Appellant submit additional evidence. Appellant submitted additional evidence on or about August 29, 2020, which was added as Exhibit 4, and the record was closed.

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 20, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Statement of Grounds for Appeal
- Exhibit 4: Form 1095-C 2019

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 45 years old in May 2019. The Appellant filed their Federal Income Tax Return as a single person, with no dependents claimed. (Exhibit 2)
2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2)

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

3. The Appellant's Federal Adjusted Gross Income for 2019 was \$60,828.00. (Exhibit 2)
4. The Appellant had health insurance during the months of January through March 2019, according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a six-month tax penalty for 2019. The Appellant filed an appeal of the assessment. (Exhibits 2 – 3 and Appellant's Testimony).
6. The Appellant submitted post-hearing a Form 1095-C 2019 showing that they had health insurance from a different employer from April through September 2019. (Exhibit 4 and Appellant's Testimony).
7. The Appellant's contractor role ended in September 2019 and they were unemployed in October 2019. Appellant became employed in another contractor role beginning in November 2019, which turned into a full-time employment position through which the Appellant currently receives insurance coverage.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$60,828.00, could afford to pay \$405.52 per month for government-subsidized health insurance. In accordance with Table 4, the Appellant, age 45 living in Middlesex County, could have purchased private market health insurance for \$350.00 per month. (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
10. The Appellant currently has health insurance coverage.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had health insurance during the months of January through March 2019, according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant was assessed a six-month tax penalty for 2019 after the Department of Revenue applied the three-month grace period based on the Schedule HC for 2019. The Appellant filed an appeal of that assessment. (Exhibits 2 – 3 and Appellant's Testimony).

The Appellant submitted post-hearing a Form 1095-C 2019 showing that they had health insurance from a different employer from April through September 2019. (Exhibit 4 and Appellant's Testimony). Thus, I conclude that the Appellant had health insurance coverage from January through September 2019, and was uninsured for a three-month period, October through December 2019. During those three months, the Appellant was transitioning to a new contractor job which eventually became a full-time job in which the Appellant is currently employed and insured. Applying the three-month grace period to the Appellant's three uninsured months in 2019, would result in the elimination of a tax penalty assessment for the Appellant for 2019.

In summary, the Appellant's entire three-month penalty assessment is waived based on application of the three-month grace period.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-654

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

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

Hearing Date: October 5, 2020

Decision Date: November 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on October 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated September 2, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated May 12, 2020.
- Exhibit 4: Appellant's 2019 IRS 1095C Form.
- Exhibit 5: Print out from health insurance carrier dated May 9, 2020.
- Exhibit 6: HC Open Record Request.
- Exhibit 7: Letter from Appellant dated October 6, 2020.
- Exhibit 8: Health insurance carrier proof of insurance dated October 6, 2020.
- Exhibit 9: Appellant's paystubs from May 25, 2019 through August 8, 2019.

FINDINGS OF FACT

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

1. Appellant resided in New York January through March of 2019. (Appellant Testimony).

2. Appellant turned 36 years old and resided in Plymouth County from April through November of 2019. (Exhibit 2; Appellant Testimony).
3. Appellant moved back to New York in December of 2019 after getting laid off from her job in November of 2019. (Appellant Testimony).
4. Appellant filed her Federal Income Tax return as single, with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$76,354. (Exhibit 2).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claims that the individual mandate tax penalty assessed does not apply because she did not move to Massachusetts until April of 2019, and because she had employer sponsored health insurance from May through November of 2019. (Exhibits 7-9; Appellants’ Testimony).

Appellant is appealing a seventh-month penalty. (Exhibit 2). Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies.

Appellant’s 2019 Schedule HC reflects that she resided in Massachusetts January through October of 2019, and she was uninsured for the entirety of 2019. (Exhibit 2). Appellant credibly testified, however, that she did not move to Massachusetts until April, 2019, and credibly asserts, supported by documentation, that she had employer-sponsored health insurance from May through her employment layoff date in November of 2019. (Exhibits 7-9; Appellant Testimony). Accordingly, I find that Appellant is entitled to two, three-month grace periods: the first period to allow her time to obtain health insurance after moving here in March; the second based on her having had insurance for a portion of 2019. (Exhibits 7-9; Appellant Testimony).

Having found that six of the seven penalty months assessed should be waived, Appellant timely submitted documentation from her former employer’s health insurer carrier showing that she was covered from May through November of 2019. (Exhibit 8). Appellant credibly testified that in December of 2019, immediately after being laid off from her job, she moved back to New. (Exhibits 7 and 8; Appellant Testimony). As Appellant was not residing in Massachusetts in December of 2019, the

individual mandate does not apply to her for that month. I conclude that waiver of the remaining penalty month is warranted.

Accordingly, Appellants' appeal is **UPHELD** and the seven-month 2019 Tax Penalty is **OVERTURNED**.

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 NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-658

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

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

Hearing Date: October 5, 2020

Decision Date: November 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant Husband and Appellant Wife both appeared at the hearing, which was held by telephone on October 5, 2020. The procedures to be followed during the hearing were reviewed with Appellants, who were sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellants' testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated September 2, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated May 14, 2020.
- Exhibit 4: Letter from Appellant in support of this Appeal dated April 25, 2020.
- Exhibit 5: Utility provider shutoff notices (5) dated in 2019.

FINDINGS OF FACT

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

1. Appellant Husband turned 61 years old, and Appellant Wife turned 53, and both resided in Norfolk County in 2019. (Exhibit 2).
2. Appellants filed their Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$44,119. (Exhibit 2).

3. Appellant Husband was insured throughout the entirety of 2019 through his employer. (Appellants' Testimony).
4. Appellant Wife was uninsured throughout the entirety of 2019. (Appellants' Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant Wife did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and she is appealing a 12-month tax penalty for 2019. (Exhibit 2). Appellants confirm through credible testimony that Exhibit 2, the Appeal Case Information from Schedule HC 2019, incorrectly identifies Appellant Husband as being uninsured during 2019 and the individual against whom the penalty has been assessed. (Appellants' Testimony). Appellant Husband had employer-sponsored health insurance for all of 2019. (Appellants' Testimony).

In support of their appeal, Appellants claim that the individual mandate tax penalty assessed does not apply because the cost of adding Appellant Wife onto Appellant Husband's employer-sponsored health insurance policy was not affordable for Appellants, and because Appellants received one or more utility shutoff notices in 2019. (Exhibits 3-5; Appellants' Testimony).

The issue before me is whether the 12-month 2019 Tax Year penalty assessed against Appellants should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to Appellants in 2019. In determining affordability, consideration is given first to the amount Appellants are deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellants through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2019 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellants experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, aged 53 and 61, and living in Norfolk County, between \$812 and \$836 per month to purchase a family plan on the private insurance

market. Based on the Affordability Schedule, Appellants filing the Federal tax return as married filing jointly, with no dependents, with an annual Adjusted Gross Income of \$44,119, could afford to pay \$270 monthly for a family insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. I conclude that private insurance was not affordable for Appellants in 2019.

According to Schedule HC for 2019 Table 2, I find that Appellants' 2019 Adjusted Gross Income of \$44,119 made them eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of 2). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2. Appellants testified that they explored obtaining Connector Care in 2019, but that the cost was prohibitive at \$600 per month. (Exhibit 3; Appellants' Testimony).

Appellants gave conflicting testimony with respect to the cost of adding Appellant Wife to Appellant Husband's employer sponsored health insurance plan in 2019, testifying that it was either an extra \$260 per week, or an extra \$173 per week; whatever the true cost, Appellants deemed it unaffordable. (Appellants' Testimony). I find that Appellants had employers-sponsored health insurance available to them in 2019.

Appellants submitted copies of utility shutoff notice dated in April, May, October, November and December of 2019. (Exhibit 5). Accordingly, I conclude that while Appellants were eligible for Connector Care, and had access to employer-sponsored health insurance in 2019, such insurance was not affordable based on Appellants experiencing a financial hardship, as shown by their receipt of multiple utility shutoff notices in 2019. See 956 C.M.R. 6.08. (Exhibits 3-5; Appellants' Testimony).

Accordingly, Appellants' appeal is **UPHELD** and the 12-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-713

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

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

Hearing Date: October 5, 2020

Decision Date: November 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on October 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellants' testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated September 17, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated April 1, 2020.
- Exhibit 4: Letter from Appellant in support of this Appeal dated May 15, 2020.
- Exhibit 5: Lease agreement.

FINDINGS OF FACT

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

1. Appellant turned 49 years old and resided in Worcester County in 2019. (Exhibit 2).
2. Appellant filed his Federal Income Tax return as single, with one dependent, reporting an Adjusted Gross Income for 2019 of \$42,682. (Exhibit 2).
3. Appellant was uninsured from January through October of 2019, and obtained employer-sponsored health insurance in November of 2019. (Appellants' Testimony).

4. Appellant had the following monthly expenses for basic necessities in 2019, totaling \$2,117 per month: rent - \$900; car insurance - \$117; telephone - \$100; food - \$300; child support - \$700. (Exhibit 4; Appellants' Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, he is entitled to a three-month grace period, and is appealing a seven-month tax penalty for 2019. (Exhibit 2).

In support of his appeal, Appellant claims that the individual mandate tax penalty assessed does not apply because the cost of purchasing health insurance was not affordable for Appellant in 2019. (Exhibit 3; Appellants' Testimony).

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

Appellant testified that he has two children, one of whom he claimed on his 2019 taxes as a dependent. (Exhibit 2). This dependent child does not live with Appellant, works full-time and has her own health insurance. (Appellant Testimony). The other, non-dependent child was covered under MassHealth through Appellant's former spouse during 2019, and recently joined the military. (Appellant Testimony). Appellant provided conflicting testimony regarding whether he purchased a family plan in 2019, and I do not credit his testimony in this area. Based upon the record before me, including Appeal Case Information from Appellant's 2019 Schedule HC, I find that in 2019 Appellant was not responsible for

obtaining health insurance for either child, and that Appellant was not required to, nor did he, purchase a family health insurance plan in 2019. (Exhibit 2; Appellant Testimony).

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 49 and living in Worcester County, \$350 per month to purchase a single plan on the private insurance market. Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with one dependent, with an annual Adjusted Gross Income of \$42,682, could afford to pay \$270 monthly for an individual insurance plan. I conclude that private insurance was not affordable for Appellant in 2019.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$42,682 made him eligible for Connector Care based on his reporting a dependent and a family size of two on his 2019 tax return (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of 2). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2. (Exhibit 2).

Appellant testified that he was working full-time throughout 2019 for an employer who offered employer-sponsored health insurance for \$201 per week for a family plan. (Appellant Testimony). As noted above, I find that Appellant did not require a family insurance plan in 2019. Appellant testified that a single plan through his employer cost \$55 per week, and I conclude that Appellant had access to affordable employer-sponsored health insurance. (Appellant Testimony). Appellant testified that he was not eligible for this employer-sponsored health insurance until his probation period was over in March of 2019; accordingly, a three-month waiver of his penalty assessment is warranted. (Appellant Testimony). Appellant's testimony was less than clear regarding whether he signed up for a single health insurance plan through his employer in 2019, however based on Exhibit 2, the Appeal Case Information from Schedule HC 2019, I find that Appellant had health insurance beginning in November of 2019. (Exhibit 2).

A determination must be made whether Appellant experienced a financial hardship, as defined in 956 C.M.R. 6.08, such that Appellant could not bear the cost of otherwise affordable health insurance. Appellant testified to incurring the following monthly expenses for basic necessities in 2019, totaling \$2,117 per month: rent - \$900; car insurance - \$117; telephone - \$100; food - \$300; child support - \$700. (Exhibit 4; Appellants' Testimony). Appellant's gross monthly take home pay is \$3,557, which comfortably exceeds his monthly expenses. I find that Appellant did not experience a financial hardship such that Appellant could not bear the cost of otherwise affordable health insurance. See 956 C.M.R. 6.08.

Accordingly, Appellants' appeal is **DENIED** and four months of the seven-month 2019 Tax Penalty assessment are **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: 7 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 2019 for the amount equal to one half of the lowest cost health

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-758

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

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

Hearing Date: October 22, 2020

Decision Date: November 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant Husband appeared at the hearing, which was held by telephone on October 22, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated September 25, 2020.
- Exhibit 2: HC Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for the Appeal dated June 5, 2020.
- Exhibit 4: 2019 Mortgage Statements.

FINDINGS OF FACT

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

1. Appellant Husband turned 49 years old, Appellant Wife turned 59 years old, and both resided in Essex County in 2019. (Exhibit 2).
2. Appellants' filed their Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$45,143. (Exhibit 2).

3. Appellants had the following monthly expenses for basic necessities in 2019, totaling \$3,165 per month: mortgage - \$1,572; heat - \$100; electric - \$210; car payment - \$240; car insurance - \$328; telephone - \$120; internet - \$145; food - \$450. (Appellants' Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Appellant Husband had health insurance in 2019 and no penalty has been assessed against Appellant Husband. (Exhibit 2). Because Appellant Wife had no health insurance for the entirety of 2019, the three-month grace period is inapplicable, and Appellants are appealing a twelve-month tax penalty assessed against Appellant Wife. (Exhibit 2). In support of their appeal, Appellants claims that the individual mandate tax penalty does not apply to them because the cost of purchasing health insurance was not affordable for them because in 2019 they were more than 30 days in arrearages in mortgage payments. (Exhibit 2; Appellant Testimony).

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

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, ages 49 and 59 and living in Essex County, between \$699 and 836 per month to purchase a family plan on the private insurance market. Based on the Affordability Schedule, Appellants filing the Federal tax return as married filing jointly, with no dependents, with an annual Adjusted Gross Income of \$45,143 could afford to pay \$276 monthly for a family health insurance plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. I conclude that private insurance was not affordable for Appellants in 2019.

According to Schedule HC for 2019 Table 2, I find that Appellants' 2019 Adjusted Gross Income of \$45,143 made them eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$49,380 for a family of 2). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that his wife worked full-time in 2019 for an employer, and he does not know if this employer offered health insurance, as it's a small, family-owned business. I find that Appellant Wife had access to employer-sponsored health insurance in 2019.

A determination must be made whether Appellants experienced a financial hardship such that they could not purchase otherwise affordable health insurance available to them. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring significant, unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, or any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Appellant credibly testified, supported by submission of mortgage statements, that they were more than 30 days in arrearages on mortgage payments 9 out of 12 months in 2019. (Exhibit 4; Appellant Testimony). Appellant credibly testified that after selling their home in early 2020, they were forced to live in a hotel for a short period of time before finding an apartment. (Appellant Testimony). I find that while Appellant Wife had access to employer-sponsored health insurance, the cost of purchasing health insurance in 2019 was unaffordable for Appellants, who were experiencing a financial hardship as defined by the regulation, and as shown by submission of mortgage statements showing arrearages for most of 2019. (Exhibit 4; See 956 C.M.R. 6.08 and 956 C.M.R. 12.11).

Accordingly, Appellants' appeal is **GRANTED** and the twelve-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-759

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 26, 2020
Decision Date: November 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 page).
Exhibit 2:	Statement of Grounds for Appeal 2019 Signed by Appellant on //2020.	(2 PP).
Exhibit 2(a)	Appellant's Supporting Documentation 6 /8/2020	(3 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 9/30/2020	(2 PP).

The Record was left open until November 13, 2020 to submit an illegible document submitted with the appeal as well as evidence relating to a 1099 HC and resubmission of illegible document submitted for the hearing.

Exhibit 4: 2019 1095-A

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return and reported she was head of the household, had one tax dependent with a family size of three (3). (Exhibit 1, Testimony of Appellant).
2. Appellant was enrolled on a Connectorcare health insurance plan from February to April 2019 and paying \$89/month. (Testimony of Appellant).
3. Appellant could no longer afford the health insurance premium when it increased to \$318.02. (Testimony of Appellant).

4. Appellant testified the premium's increased because her 18-year-old daughter's income is included, although she is a student who resides with the Appellant and is not a tax dependent and does not have coverage through the Appellant. (Testimony of Appellant).
5. Appellant testified that she worked part time and could not afford the cost of employer coverage which was \$200 per week. (Testimony of Appellant).
6. Appellant testified she could only afford a limited health insurance plan which cost \$189.95 per month which included a hospital plan that had limited coverage, and the coverage "was not great." (Testimony of Appellant, Exhibit 2(a), Exhibit 4).
7. Appellant did not know whether the limited health plan she enrolled in met minimal credible coverage("MCC") standards. (Testimony of Appellant).
8. The plan summary references "hospital indemnity, insurance benefits, discount medical benefits and consumer benefits (Exhibit 2(a)).
9. Appellant's Federal Adjusted Gross Income for 2019 was \$44,444 (Exhibit 1).
10. Appellant has been assessed a tax penalty for five (5) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant had the following monthly expenses for necessities in 2019: Mortgage: \$763, Utilities: \$195, Oil Heat: \$333, Wife-\$130, Car \$ 285, Car Insurance \$ 215, Credit Cards \$230, Food: \$400 totaling \$2,551. (Testimony of Appellant).
12. Appellant testified she provides support to her two youngest children as a single mother. (Appellant Testimony).
13. Appellant testified she took home approximately \$35,000 per year after taxes. (Testimony of Appellant).
14. According to Table 3 Appellant could have afforded \$ 278.89 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2019>, and, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for five (5) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant did not submit grounds with her appeal but adduced testimony and evidence that during 2019: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Testimony of Appellant, Exhibit 2).

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

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

The evidence provided by the Appellant established that her income for 2019, \$44,444, was less than 300% of the federal poverty level, which for 2019 was \$ 62,230 for an individual with a family size of three (3). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$44,444 in 2019 and could have afforded \$278.89 per month. According to Table 4, Appellant, age 39 and living in Hampshire County during the time she was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through her employer, but that it was too costly at \$200 per week, or \$860/monthly 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 2019 is considered to be affordable if the employee’s contribution for an individual plan is 9.86 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, I credit the Appellant’s testimony that where the monthly cost for an individual plan through the Appellant’s employer was \$200.00 per week, the employer health insurance was not affordable.

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

The Appellant testified credibly that she had the following monthly expenses for basic necessities in 2019. Mortgage: \$763, Utilities: \$195, Oil Heat: \$333, WiFi \$130, Car \$ 285, Car Insurance \$ 215, Credit Cards \$230, Food: \$400 totaling \$2,551. (Testimony of Appellant).

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities. I find that the Appellant could not have afforded \$278.89 per month given her basic monthly expenses of \$2,551 which was subsumed in her adjusted gross income of \$44,444. Accordingly, I find that she experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

The Appellant recognizes the importance of health coverage but was only able to afford a plan which appears to have not met minimal credible coverage. The Appellant was encouraged to contact the Connector to report any income changes in her household.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-761

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: October 26, 2020
Decision Date: November 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant on 6/1/2020. (2 PP).
- Exhibit 2(a) Appellant's Supporting Documentation Health Connector 6/15/2020 (3 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 9/30/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return filed single with a family size of 1, was age 42 in 2019, lived in Essex County, and had no dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2019 was \$64,863. (Exhibit 1).
3. Appellant did not have health insurance in 2019. (Exhibit 1, Appellant's Testimony).
4. Appellant was employed with multiple employers throughout the year and was not receiving steady income. (Appellant's Testimony, Exhibit 2(a)).
5. Appellant testified he was in the service industry, paid \$4.25 per hour and his net take home pay varied

depending on the number of hours worked and tips he received.

6. Appellant testified he paid child support for his 2 children at approximately \$696/month which was deducted from his wages. (Appellant's Testimony, Exhibit 2(a)).
7. Appellant testified he did not determine the amount of the cost of employer sponsored insurance because he knew it would be unaffordable given his income and expenses. (Appellant's Testimony).
8. Appellant testified he would not have been able to afford publicly sponsored insurance because it would be unaffordable given his income and expenses. (Exhibit 2(a)).
9. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
10. Appellant had the following average monthly living expenses in 2019: Rent \$1,150, Utilities: \$200, Phone \$80, Car Insurance \$ 100, Gas \$150, Parking: \$220, Child Support \$646, College Expenses: \$166, totaling: \$2,712. (Appellant's Testimony, Exhibit 2(a)).
11. Appellant had \$2,000 in out of pocket expenses for his Daughter's college in September 2019. (Appellant's Testimony).
12. According to Table 3 Appellant could have afforded \$432.42 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$306.00 per month.
13. Appellant testified because of Covid he has been furloughed since March where he works in the service industry but has maintained employer health insurance. (Appellant's Testimony).
14. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the poverty level, which was \$36,420.00. (See Table 2 of Schedule HC 2019, Appellant's Testimony).
15. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2019 because: Other. The Appellant also adduced testimony and submitted correspondence that 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 and that during 2019. See 956 CMR 6.08. The Appellant did not have insurance from January through December. (See Exhibit 1).

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

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

The evidence provided by the Appellant established that his income for 2019, \$64,863.00 was greater than 300% of the federal poverty level, which for 2019 was \$36,420.00 for a single person. According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$64,863 in 2019 and could have afforded \$432.24 per month. According to Table 4, Appellant, age 42 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$306.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2019. The Appellant credibly testified he did not consider employer plans because he worked for three employers in full and part time positions. The Appellant also testified that he would not be left with any net amounts to be deducted for employer insurance given his pay structure and child support and other deductions given his expenses. (Appellant’s Testimony).

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

The Appellant had the following average monthly living expenses in 2019: Rent \$1,150, Utilities: \$200, Phone \$80, Car Insurance \$ 100, Gas \$150, Parking: \$220, Child Support \$646, College Expenses: \$166, totaling: \$2,712. (Appellant's Testimony, Exhibit 2(a)).

The evidence presented by the Appellant in this case is insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. Given the Appellant's Annual Adjusted Gross Income ("AGI") of \$64,683 and his monthly expenses of \$2,712, the Appellant failed to demonstrate that the cost of purchasing private insurance for \$432.42 per month would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. (Exhibit 2(a), Appellant Testimony).

Notwithstanding the above, the penalty will be reduced to four (4) months in order to mitigate the harshness of a full twelve-month assessment.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-763

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 26, 2020

Decision Date: November 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on October 26, 2020. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Statement of Grounds for Appeal 2019 Signed by Appellant UNDATED. (2 PP).
- Exhibit 2(a) Appellant's Supporting Correspondence/Documentation Health Connector 6/15/2020 (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 9/30/2020 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return reported he was single, was age 24 in 2019, lived in Essex County, and had a family size of 1. (Exhibit 1, Testimony of Appellant).
2. Appellant worked full time part of the year and was paid an hourly rate of \$16.25 /hour. (Exhibit 2(a), Testimony of Appellant).
3. The Employer changed his compensation to salary during the year but then changed it back to hourly. (Testimony of Appellant).
4. Appellant testified that his Employer told him they offered an insurance plan, but it did not meet minimal credible coverage ("MCC") standards. (Testimony of Appellant, Exhibit 2(a)).

5. Appellant testified that the employee premium was only \$5.00 per pay period, but it did not have good coverage and there were substantial out of pocket costs and deductibles (Testimony of Appellant).
6. Appellant inquired obtaining coverage through the Connector but could not afford the \$300+ premium per month and understood that he would have to meet deductibles before he could realize coverage. (Testimony of Appellant, Exhibit 2(a)).
7. Appellant enrolled in the non MCC coverage with his employer in December because he was facing health issues. (Testimony of Appellant).
8. Appellant's Federal Adjusted Gross Income for 2019 was \$43,030 (Exhibit 1).
9. Appellant has been assessed a tax penalty for twelve (12) months in 2019. The Appellant has appealed this assessment (Exhibits 1, 2).
10. Appellant had the following monthly expenses for basic necessities in 2019: Cell Phone \$130, Food \$280, Car \$400, Car Insurance: \$300, Gas \$100, Money sent to support his Mother: \$100, Clothing/Incidentals: \$200 totaling: \$1,510. (Testimony of Appellant).
11. Appellant testified he has a new employer and is currently insured. (Appellant Testimony).
12. According to Table 3 Appellant could have afforded \$272.52 per month for health insurance in 2019. According to Table 4 Appellant could have purchased insurance for \$257.00 per month.
13. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2019. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submit grounds with his appeal that during 2019: that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

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

M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

The evidence provided by the Appellant established that his income for 2019, \$43,030, was more than 300% of the federal poverty level, which for 2019 was \$36,420 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2019, the Appellant had an adjusted gross income of \$43,030 in 2019 and could have afforded \$272.52 per month. According to Table 4, Appellant, age 24 and living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$257.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2019 (Schedule HC for 2019).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI"). The Appellant credibly testified that health insurance was offered through his employer, but that same did not meet minimal credible coverage as explained to him by his employer. The Appellant testified that the cost was only five (\$5) Dollars per weekly pay period, that the coverage was not adequate and did not meet minimum credible standards, and that the deductibles and copays were substantial. (Exhibit 2(a). 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 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86 percent or less of the employee's projected household modified adjusted income (MAGI). In this case, I credit the Appellant's testimony that the where the monthly cost for an individual plan through the appellant's employer was \$5.00 per week, and he understood from the employer the plan did not meet minimum value standards because of the substantial deductibles and co-pays, that the coverage is not considered to meet minimum value standards.

Where the Appellant did have access to affordable insurance through the individual market but not through employer sponsored coverage, and where the Appellant testified he could not afford insurance through the ConnectorCare program, we need to determine if the Appellant experienced a financial hardship such the coverage would have been unaffordable for him. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected

increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2019 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused his to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08

The Appellant testified credibly that he had the following monthly expenses for basic necessities in 2019. Cell Phone \$130, Food \$280, Car \$400, Car Insurance: \$300, Gas \$100, Money sent to support his Mother: \$100, Clothing/Incidentals: \$200 totaling \$1,510.

Based upon the facts summarized above, I determine that the cost of purchasing health insurance would not have caused the Appellant to experience a serious deprivation of basic necessities. I find that the Appellant could have afforded \$272.50 per month given his basic monthly expenses of \$1,510 and his annual gross adjusted earnings of \$43,030. It is concluded that the Appellant did not establish through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1), (e), and (3) which allows consideration of financial issues raised by the Appellant on appeal.

Notwithstanding the above, the penalty will be reduced to two (2) months for this 24 year-old in order to mitigate the harshness of a full twelve (12) month assessment. The mandate has not been lost on the Appellant as he testified he was able to obtain employer insurance in 2020. The Appellant recognizes the importance of health coverage.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-770

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 27, 2020

Decision Date: December 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on October 27, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

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

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

- Ex. 4—Letter from the appellant, undated
- Ex. 5—2019 Schedule HC, page two
- Ex. 6—2018 U.S. Form 1040, Schedule 4

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 42-years-old, is single, and does not have children. She resided in Essex County, MA in 2019. She had minimum creditable coverage (MCC) health insurance for the months of July and August, 2019. ² (Testimony, Exs. 2,5)

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

² Subsequent to the hearing, the appellant was advised by her tax preparer that she had health insurance for the months of August and September. However, her Schedule HC indicated that she was insured for the months of July and August. Since

2. The appellant worked for the same employer, a small business, in 2018, 2019 and 2020 until she was separated from her position due to COVID-19. The employer did not provide health insurance in 2018 because most or all of the other employees had their own health insurance. The appellant did not have health insurance in 2018 and paid a penalty with her 2018 federal tax return. (Testimony, Ex. 6)
3. The employer advised the appellant that it would look into obtaining health insurance for her in 2019, but after the first few months of the year passed, the appellant felt that the employer was giving her the run around. She investigated her eligibility for MassHealth and was advised by letter dated February 12, 2019 that she did not qualify for benefits. (Testimony, Ex. 1)
4. The appellant continued to inquire about the employer's progress in obtaining health insurance, and was eventually advised that since a number of new employees had been hired, the employer would be able to provide health insurance for her and the others. For the period beginning on August 4, 2019, and continuing through the remainder of the year, the appellant paid a bi-weekly premium of \$141.57 for health insurance. She did not have occasion to use the insurance in 2019. (Testimony, Ex. 1)
5. In early 2020, the appellant had a doctor's appointment and was advised that her health insurance was inactive, which completely surprised her as she had been paying her premiums since August and was never advised as to a problem with her coverage. She spoke to her employer who first told that she would look into the matter and then told her that she was going to look around for another insurance provider. Eventually, the employer advised her that the company would be using a new insurance provider as of February 10, 2020. The date came and went and nothing happened. Since the appellant was separated from her job in March, the issue of finding replacement insurance became moot. (Testimony, Ex. 4)
6. Subsequent to the hearing, the appellant contacted the health insurer for clarification on her coverage in 2019 and was advised that the group coverage was cancelled due to nonpayment by the employer. The appellant was shocked and angered, particularly since she had paid premiums for several months of coverage which were deemed inactive due to the employer's failure to pay its share of the premiums. (Ex. 4)
7. The appellant got a new job during the summer of 2020 and has been enrolled in health insurance through the Health Connector since that time. (Testimony)
8. The appellant reported an adjusted gross income of \$35,894.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

there is no dispute that the appellant had insurance for two consecutive months of 2019, the fact that the months may be different from what was indicated on her Schedule HC has no bearing on the outcome of this decision.

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.

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

The appellant testified credibly that she was employed in 2018, 2019 and part of 2020 by the same employer. She testified that the employer did not offer health insurance in 2018 and she paid a penalty for not obtaining insurance on her 2018 federal return. She testified that in 2019, the employer advised her that it would look into health insurance options for her, but after a few months, she felt as if she was getting the run around. She testified that she investigated her eligibility for MassHealth and was notified in February that she did not qualify for benefits. She testified that the employer eventually advised her that due to several new employee hires, it would be able to offer health insurance to her and the others. She testified that beginning with the month of August and continuing for the rest of the year, she paid biweekly premiums for health insurance. She testified that she did not have occasion to use the insurance in 2019, but she had a doctor's appointment in early 2020, and was told that her insurance was inactive. She testified that she was completely surprised and told the employer who indicated that it would speak with the insurer. She testified that the employer offered a couple of other explanations about possible coverage until she lost her job due to COVID-19 in March. Finally, she testified that she got a new job in the summer of 2020 and obtained health insurance at that time through the Health Connector for the remainder of the year.

With regard to the period of January through June, the appellant offered credible testimony that she relied on the employer's representation that it was investigating health insurance options for her. When it did not seem that the employer could be trusted on the matter, the appellant looked into insurance through MassHealth, but her request was denied. (It is unclear why she did not get a determination for other subsidized insurance, including ConnectorCare, for which she might have been eligible given that her income was less than 300% of the Federal Poverty Level which for 2019 was \$36,420.00 for an individual.) With regard to the period of September through December, the appellant established by substantial and credible evidence that she enrolled in coverage beginning in August and paid premiums for the remainder of the year. Unbeknownst to her, the coverage was cancelled after the first two months of enrollment due to nonpayment by the employer, even though she continued to pay premiums for the next three months.

Based on the totality of the evidence, it is concluded that the appellant reasonably believed the employer's assurances that she would set her up with health insurance in 2019. It is further concluded that she relied on the employer to her detriment when she paid for insurance benefits that ultimately were cancelled through no fault of her own. Finally, the appellant enrolled in insurance in the summer of 2020 thereby demonstrating that the mandate to purchase insurance was not lost on her. Accordingly, her request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-777

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 29, 2020

Decision Date: December 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 29, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until November 19, 2020, for the Appellant to submit documentation of the cost and benefits of the health insurance coverage offered by her employer in 2019. The Appellant did not submit any documentation in response to the request for additional information, and the record was closed on November 19, 2020.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 6/2/20 Appeal (3 pages)
- Exhibit 3: 10/1/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$51,138. The Appellant turned twenty-nine years old in 2019. The Appellant resided in Worcester County in 2019. (Exhibit 1)
2. On June 16, 2020, the Appellant appealed from the assessment of a seven-month penalty on her 2019 income tax return, checking off, "During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," on the appeal form, as the basis for her appeal. (Exhibit 2)
3. The Appellant had health insurance coverage through MassHealth in January and February 2019. (Appellant's testimony)

4. The Appellant worked for the same employer throughout 2019. Her employer offered health insurance to employees, and the Appellant was eligible for the coverage in 2019. The Appellant did not enroll in the coverage. (Appellant's testimony)
5. It is not known how much the Appellant would have had to pay for her employer's health insurance coverage in 2019. (Adverse inference drawn from Appellant's failure to provide supporting documentation while record was left open for doing so)
6. The Appellant's 2019 monthly expenses for basic necessities included: rent/utilities, \$1,000; food, \$300; phone, \$50; car payment/insurance, \$375; gas, \$200; and, student loan, \$100, for a total of \$2,025.
7. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since her income was more than \$36,420 for a family size of one.
8. According to Table 3, Affordability, of the Schedule HC 2019, based on her 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$340/monthly for health insurance coverage in 2019.
9. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$259, based on her age and county of residence in 2019.
10. The Appellant could have afforded to pay a monthly premium of \$259 for health insurance coverage in 2019. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

M.G.L c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had health insurance coverage during the first two months of 2019, she had a three-month grace period, through May 2019, to obtain new health insurance coverage. At issue here are the last seven months of 2019 when the Appellant failed to have health insurance coverage.

I do not find credible the Appellant's testimony that she applied to the Health Connector for health insurance coverage in 2019 by phone and was told that coverage would cost \$340-345 monthly; and, that the coverage offered by her employer cost \$345-350. Early in the hearing, when I informed the Appellant that the Affordability Table indicated that she could have afforded to pay up to \$340/monthly for health insurance coverage in 2019 and that Table 4 showed that coverage was available to her in the private market for \$259, the Appellant acknowledged that she could have afforded to pay \$259 for coverage. Later in the hearing, when asked about the cost of the health insurance coverage offered by her employer, the Appellant said \$345-350; and, when asked about the cost of the health insurance coverage she claimed that she had applied for through the Health Connector, the Appellant said \$340-345. However, as both of these premiums were exactly at, or barely over, the \$340 affordability limit that I had just informed her about and as the Appellant had no documentary evidence to offer about the cost of the coverage offered by her employer or that she had applied to the Health Connector for 2019 coverage, I find that the Appellant just made up these numbers after learning from me the maximum premium cost that she could afford to pay under the 2019 Affordability Table.

With respect to the Appellant's contention that purchasing health insurance coverage in 2019 would have caused her a serious deprivation of necessities, the Appellant's 2019 monthly expenses of \$2,025 left her with ample funds in 2019 to afford the health insurance coverage available to her at a monthly cost of \$259. In addition, at hearing the Appellant admitted that she could have afforded to pay this much for coverage in 2019.

Therefore, I conclude that the Appellant has not established that she experienced financial circumstances in 2019 such that the expense of purchasing health insurance in 2019 that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. 956 CMR 6.08(1)(e).

Accordingly, the Appellant's seven-month penalty for 2019 shall not be waived or reduced.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-791

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 6, 2020

Decision Date: November 23, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 6, 2020.

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

Exhibit 1: Hearing Notice dated October 7, 2020 (2 pages)

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

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

Exhibit 4: Appellant's Supporting Letter (2 pages)

Exhibit 5: Unemployment Ins. Benefits, 3/2/19-6/23/19 (2 pages)

Exhibit 6: Tufts Health Plan card (copy) (1 page)

Exhibit 7: Aetna Multiplan Health Savings Card (2 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 28 years old in June 2019. The Appellant filed their Federal Income Tax Return as a head of household, with one dependent claimed. (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$168,124.00. (Exhibit 2).
4. The Appellant had health insurance during five (5) months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a two (2)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in June 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a head of household, with one dependent claimed, with an annual adjusted gross income of \$168,124.00, could afford to pay \$1,121.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Worcester County, could have purchased private market health insurance for \$665.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant had health insurance during January and February 2019. At the end of February 2019, they lost their job unexpectedly. Thereafter, they were unemployed for five months while looking for a new job and collected unemployment insurance benefits from April through June 2019. Thereafter, they moved out of state to begin a new job. Thus, employer-sponsored insurance was not available to the Appellant from March through July 2019.
9. The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because their adjusted gross income of \$168,124.00 was greater than 300% of the Federal poverty level, which was \$49,380.00 for a family of two in 2019. (Schedule HC, Table 2).

10. When the Appellant unexpectedly lost their job in February 2019, they had earned about \$28,000.00 in Massachusetts wages for 2019. Appellant testified that they had not expected to lose their job and, therefore, had not saved money. (Appellant's Testimony).
11. Appellant was anxious about not having a source of income and did not believe they could afford to pay the cost of COBRA, about \$600 per month, based on their unemployment benefits and still pay their monthly living expenses and support their significant other. (Appellant's Testimony and Exhibit 5). They did not understand how the Health Connector marketplace worked and what options were available. (Appellant's Testimony, which I credit).
12. Appellant found an out-of-state job which began in August 2019. They moved from Massachusetts to begin their new employment and have received health insurance through their out-of-state employer since September 2019.
13. The balance of the income reflected in their 2019 adjusted gross income, after subtracting Massachusetts wages of \$28,000.00, or about \$140,124.00, was money they earned after moving out of state to accept a new job. (Appellant's Testimony).
14. The Appellant's 2019 monthly living expenses of \$4,087.00 included: Rent - \$1,325.00, Parking - \$250.00, Electricity/heat - \$250.00, Car payments - \$536.00, Car and motorcycle insurance - \$300.00, Gas - \$100.00, Cable/internet - \$130.00, Phone - \$160.00, Food - \$800.00, Student loans - \$100.00, Upstart loan - \$326.00, Pet - \$50.00 (Appellant's Testimony).
15. The Appellant did not testify to any rent arrearages, utility shut-offs, or unexpected expenses because of care of a family member or natural disasters. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of two (2) months. They checked the box on the Statement of Grounds for Appeal form saying that purchasing Massachusetts health insurance in 2019 would have caused them a deprivation of food and other living necessities. (Exhibit 3).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$168,124.00, could afford to pay \$1,121.00 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 28, living in Worcester County, could have purchased private market health insurance for \$665.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

Appellant received employer-sponsored insurance in January and February 2019. Thereafter, they lost their job and were unemployed in Massachusetts until July 2019, when they moved out of state. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to them from March through July 2019. (Appellant's Testimony).

The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because their adjusted gross income of \$168,124.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

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

The Appellant's adjusted gross income was \$168,124.00. That amount obscures the fact that Appellant earned only \$28,000.00 of that amount while living in Massachusetts and that they were unemployed in Massachusetts from March through June 2019. Thereafter, they moved out of state to begin a new job and no longer were subject to the Massachusetts individual mandate. Their monthly living expenses totaled \$4,087.00. The Appellant lost their job unexpectedly and, therefore, had not saved money. They did not believe they could afford to buy COBRA insurance based on their unemployment benefits and still pay their monthly living expenses of \$4,087.00 and support their partner. They did not understand how the Health Connector marketplace worked and what options might exist there. (Appellant's Testimony, which I credit). The Appellant has had employer-sponsored health insurance since moving out of state. (Appellant's Testimony).

Considering the totality of the circumstance and evidence presented in the administrative record, I conclude that Appellant has demonstrated financial hardship within the meaning of 956 CMR 6.08 (1)(e) & 956 CMR 6.08(3). Accordingly, their two-month assessed penalty is waived. Further, given Appellant's lack of understanding about the Health Connector Marketplace options while unemployed, the fact that they moved out of state in July 2019 and currently have

out-of-state coverage, I conclude that the equities further support waiving the two-month penalty.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-793

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 6, 2020

Decision Date: **November 24, 2020**

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 6, 2020.

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

Exhibit 1: Hearing Notice dated October 7, 2020 (2 pages)

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

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

Exhibit 4: Appellant's Supporting Letter (1 page)

Exhibit 5: Form 1095A Health Ins. Marketplace Statement (1 page)

Exhibit 6: Bank of America. Acct. Payment Activity, 12.3.19 (1 page)

Exhibit 7: Health Connector Enrollment History Ins. Plans (1 page)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 33 years old in May 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$68,041.00. (Exhibit 2).
4. The Appellant did not have health insurance for six months during 2019 (March through September). (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a three (3)-month tax penalty for 2019 according to Information from Schedule HC for 2019. (Exhibit 2). The Appellant filed an appeal of the assessment in June 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$68,041.00, could afford to pay \$453.61 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 33, living in Middlesex County, could have purchased private market health insurance for \$279.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant was placed by a contracting agency to work as a contract employee with a company beginning in 2019. (Appellant's Testimony). Employer-sponsored insurance was not available to Appellant from January through August 2019. (Appellant's Testimony and Exhibit 4).
9. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$68,041.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant had been placed in a lower-paying job prior to January 2019 and was receiving Health Insurance through the Health Connector then. They had placed their

payments on auto-pay for monthly payments prior to January 2019. (Appellant's Testimony, which I find credible).

11. From January 2019 through August 2019 Appellant was placed in a higher-paying job as a contract employee. Their auto-payments continued to be made for Connector insurance for January and February 2019. (Appellant's Testimony and Exhibits 4-7).
12. Appellant testified that they did not review their monthly auto-payments but believed their payments continued to be made throughout 2019. (Appellant's Testimony (which I find credible) and Exhibit 4). The Appellant had no occasion to use their health insurance from January through August 2019.
13. In August 2019, Appellant was hired as a full-time employee of the company for which they had worked as a contract employee. At that time, the company offered Appellant health insurance coverage, which Appellant accepted. Appellant testified that they contacted the Connector to cancel their Connector insurance only to learn for the first time that their Connector insurance had been cancelled at the end of February 2019. (Appellant's Testimony and Exhibit 4). I credit Appellant's Testimony.
14. The Appellant further testified that they did not receive a notice of termination of their coverage in 2019. They testified that they moved towns in 2019 and speculated that perhaps a notice was never forwarded. (Appellant's Testimony). They further testified that their intention was to have health insurance coverage throughout 2019, which is what they believed was happening until August 2019. (Appellant's Testimony, which I find credible).
15. From September through December 2019, the Appellant received health insurance coverage through their new employer and remains covered currently. (Appellant's Testimony and Exhibit 2).
16. The Appellant's 2019 monthly living expenses in Massachusetts of \$1,555.00 included: Rent - \$1,050.50, Electricity - \$150.50, Car insurance - \$150.00, Gas - \$20.00, Phone - \$15.00, Internet/cable - \$20.00, Food - \$150.00. (Appellant's Testimony).
17. The Appellant did not testify to any rent arrearages, utility shut-offs, unexpected expenses because of care of a family member or natural disasters. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant is appealing the assessed tax penalty of three (3) months. They checked the box on the Statement of Grounds for Appeal form saying that applying the affordability tables in Schedule HC to them would be inequitable. (Exhibit 3).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$68,041.00, could afford to pay \$453.61 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 33, living in Middlesex County, could have purchased private market health insurance for \$279.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

Employer-sponsored insurance was not available to Appellant from January through August 2019. (Appellant's Testimony and Exhibit 4).

The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$68,041.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

Appellant's Federal Adjusted Gross Income for 2019 was \$68,041.00. A substantial portion of that amount was earned once the Appellant became a full-time employee in August 2019 and enrolled in health insurance through their full-time employer. (Appellant's Testimony). Prior to that, Appellant had been working as a contract employee placed by a contracting agency. They had been placed in a lower-paying contract position in 2018 and were receiving insurance through the Connector then. Appellant set up their Connector insurance premium payments on auto pay and had no occasion to use their health insurance in 2019. In August 2019, they were hired as a full-time employee of the company for which they had worked as a contract employee and enrolled in health insurance through their new employer's plan. They then went to cancel their Connector insurance, only to discover for the first time that the plan had been cancelled in February 2019. The Appellant testified that they were unaware they did not have coverage from March through July 2019 and had intended to have it. (Appellant's Testimony, which I credit). The Appellant had coverage through their new employer from August through December 2019 and through the present. (Appellant's Testimony).

The Appellant's 2019 monthly living expenses of 1,555.00 included: Rent - \$1,050.50, Electricity - \$150.50, Car insurance - \$150.00, Gas - \$20.00, Phone - \$15.00, Internet/cable - \$20.00, Food - \$150.00. (Appellant's Testimony). Based on all the evidence and the totality of the circumstances in this administrative record, the Appellant has demonstrated that applying the affordability tables to them under these circumstances would be inequitable and would have created a financial hardship. See 956 CMR 6.08 (1) & (3). Therefore, the Appellant's three-month penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-802

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

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

Hearing Date: November 5, 2020

Decision Date: December 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 5, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing Dated October 7, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for the Appeal dated June 24, 2020.
- Exhibit 4: Appellant's 2019 Schedule HC.
- Exhibit 5: HC Open Record Request.
- Exhibit 6: Certificate of insurance dated October 28, 2020.

FINDINGS OF FACT

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

1. Appellant turned 23 years old in 2019. (Exhibit 2).
2. Appellant filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$36,538. (Exhibit 2).

3. Appellant is a resident of Arizona, temporarily living in Massachusetts while attending school. (Exhibit 2; Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant asserts that he is not a Massachusetts resident and additionally, that he had health insurance for the entirety of 2019 under his parent’s employer-sponsored insurance plan. (Appellant Testimony).

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant reported on his 2019 tax return that he did not have health insurance in 2019, the three-month grace period is inapplicable and Appellant appeals a twelve-month tax penalty for 2019. (Exhibit 2).

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

Appellant testified that due to his confusion while completing his tax return, he inadvertently reported having no health insurance coverage in 2019. (Appellant Testimony). Appellant credibly testified that in 2019 he temporarily resided in Massachusetts while attending school here, but that his permanent residence is Arizona, which is supported by Appellant’s 2019 Schedule HC showing an Arizona address. (Exhibit 4; Appellant Testimony). Additionally, Appellant asserts that he had health insurance coverage during the entirety of 2019 under his parent’s employer-sponsored plan, although he failed to provide supporting documentation of this prior to the instant hearing. (Appellant Testimony). The record was kept open for Appellant to submit proof of coverage under his parent’s plan. (Exhibit 5).

Appellant timely submitted a certificate from his parent’s health insurer confirming that Appellant has been continuously covered under this health insurance plan since January of 2017. (Exhibit 6).

Based on Appellant’s credible testimony, supported by submission of the health insurer’s certification, I conclude that in 2019 Appellant was not a Massachusetts resident, and even if he were a resident, Appellant had health insurance coverage for all of 2019.

Accordingly, Appellants’ appeal is **GRANTED** and the twelve-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-817

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 5, 2020

Decision Date: December 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 5, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (10-22-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (undated) (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 63 during 2019, from Barnstable County, filed married filing separately on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance from July through December of 2019, but did not have health insurance during January through June of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$18,693.00 (Exhibit 2).
4. Appellant was separated from Appellant's spouse, and sought assistance for medical bills, etc. from the spouse but did not receive assistance. Appellant sought legal assistance, and incurred legal fees as well as other expenses. Ultimately, Appellant obtained health insurance from MassHealth. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, legal and medical bills, and other necessities, used all of the available income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, child support and other necessities, totaled approximately \$1,400.00 per month averaged out, or \$16,800.00 for the year. (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$45.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore would may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and 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 2019 should be waived in whole, in part, or not at all.

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$18,693.00 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 \$45.00 per month; according to Table 4, Appellant, who was 63 years old in 2019, from Barnstable County, and filed the 2019 Massachusetts taxes as married filing separately with a family size of 1, would have had to pay \$418.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, legal and medical expenses, vehicle expenses, and other necessities used all of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-819

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 5, 2020

Decision Date: December 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 5, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (10-22-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (6-27-20) (with documents and letter) (24 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 63 during 2019, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for January and February of 2019, but did not have health insurance during the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$21,754.00 (Exhibit 2).
4. Appellant had health insurance through the employer for January and February, and then retired and no longer was eligible for the insurance. Appellant began part-time employment but was not eligible for employer sponsored health insurance. Appellant did not believe that health insurance was affordable. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, medical bills, and other necessities, used all of the available income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, medical bills and other necessities, totaled approximately \$2,807.00 per month averaged out, or \$33,684.00 for the year. (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$53.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and 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 2019 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for January and February of 2019, but did not have health insurance for the remaining months of 2019. They have been assessed a tax penalty for seven months. Appellant

appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$21,754.00 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 \$53.00 per month; according to Table 4, Appellant, who was 63 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$418.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, medical expenses, vehicle expenses, and other necessities used all of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-820

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 5, 2020

Decision Date: December 17, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 5, 2020. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (10-22-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (7-1-20) (with document and letter) (7 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 27 during 2019, from Plymouth County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for February, March and April of 2019, but did not have health insurance during the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$51,817.00 (Exhibit 2).
4. Appellant had health insurance through the Health Connector for February, March and April, but cancelled it due to significant debt that Appellant had, and Appellant did not believe that health

insurance was affordable. Appellant was two months behind in rent and also had overdraft fees from the bank account. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, medical bills, and other necessities, used most of the available income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, medical bills and other necessities, totaled approximately \$3,942.00 per month averaged out, or \$47,304.00 for the year. (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$345.00.
8. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, but they were thirty days or more behind in rent in 2019. 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 2019 should be waived in whole, in part, or not at all.

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

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$51,817.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$345.00 per month; according to Table 4, Appellant, who was 27 years old in 2019, from Plymouth County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, medical expenses, vehicle expenses, and other necessities used most of the income. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-824

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 6, 2020

Decision Date: December 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. At the end of the hearing, the record was left open until November 20, 2020 so that Appellant could submit further documents. Appellant did not submit any new documents and the record is now closed.

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

Exhibit 1: Correspondence from the Health Connector dated October 9, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Appeal dated July 8, 2020

Exhibit 4: Statement of Appellant in support of the Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 21 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Middlesex County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$45,347 (Exhibit 2).
4. Appellant moved to Massachusetts in 2018 (Testimony of Appellant).
5. Appellant was covered by employer sponsored health insurance from Appellant's job in the previous state during 2018 and continuing through July 2019 (Exhibit 4 and Testimony of Appellant).
6. Appellant's health insurance from January through July 2019 met the ACA standards for health insurance coverage (Exhibit 4).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$45,347 could afford to pay \$287 per month for private insurance. According to Table 4, Appellant, age 21 and living in Middlesex County could have purchased private insurance for \$257 per month.
9. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
10. Appellant, earning more than \$36,420, would not have been income eligible for government subsidized health insurance (Schedule HC for 2019).
11. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
12. Appellant filed an appeal on July 8, 2020, claiming that Appellant was covered by health insurance for January through July 2019 (Exhibit 3).
13. Appellant lost employment in 2020 due to the Covid19 pandemic (Testimony of Appellant).
14. Appellant was covered by Massachusetts health insurance in 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08 (1).

During January through July 2019, Appellant was covered by employer sponsored health insurance from a job in another state. For this time period, the issue to be decided is whether the policy substantially met the Massachusetts minimum creditable coverage standards and whether Appellant’s circumstances prevented Appellant from buying other insurance that met the Massachusetts requirements. The health insurance did meet the ACA standards, but there is no evidence about whether or not it substantially met the Massachusetts minimum creditable coverage standards. Additionally, private health insurance was considered affordable for Appellant in 2019. See 956 CMR 6.08 (2)(d), Schedule HC for 2019, Exhibits 2, 3, and 4, and Testimony of Appellant, which I find to be credible.

However, since Appellant was new to Massachusetts in 2019 and began coverage by insurance that met Massachusetts minimum creditable coverage standards in 2020, I will waive the penalty for 2019.

PENALTY ASSESSED

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

PENALTY ASSESSED

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

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-826

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 6, 2020
Decision Date: December 4, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 6, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. At the end of the testimony, the record was held open so that Appellant could submit additional documents. Appellant submitted a 1099 HC which has been marked as Exhibit 5.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 9, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated June 16, 2020
- Exhibit 4: Statement in Support of Appeal
- Exhibit 5: Form 1099 HC for 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 64 years old in 2019. Appellant filed a Massachusetts 2019 tax return as married filing separate with one dependent claimed (Exhibit 2).
2. Appellant resided in Barnstable County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$41,635 (Exhibit 2).
4. Appellant had government subsidized health insurance in January, February and March 2019 (Exhibit 5 and Testimony of Appellant).
5. In March 2019, Appellant was notified that Appellant owed \$2,224 for Advance Premium Tax Credits that Appellant received in 2018 (Exhibit 4 and Testimony of Appellant).
6. Appellant learned that the \$2,224 was owed because Appellant had filed taxes as married filing separate in 2018 (Exhibit 4 and Testimony of Appellant).

7. Appellant had not previously been aware that the tax filing status would affect eligibility for Advance Premium Tax Credits (Exhibit 4 and Testimony of Appellant).
8. When Appellant learned that Appellant was not eligible for government subsidized health insurance and that Appellant owed \$2,224, Appellant stopped the Health insurance coverage with the Connector (Exhibit 4 and Testimony of Appellant).
9. Appellant stopped the coverage with the Health Connector because Appellant could not afford the \$2,224 and also could not afford the cost of unsubsidized health insurance (Exhibit 4 and Testimony of Appellant).
10. Appellant had the following monthly expenses during 2019: mortgage \$1,000; utilities \$300; phone \$80; food \$867; supplies \$100; clothing \$83; car payment \$400; car insurance \$150; gasoline \$173; dental \$30. Appellant's monthly expenses were \$3,183. Additionally, Appellant's repayment of the APTC to the IRS was \$185 per month (Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
12. Appellant did not have health insurance for nine months of 2019 (Testimony of Appellant and Exhibit 2).
13. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).
14. Appellant filed a hardship Appeal on June 16, 2020 (Exhibit 3).
15. Appellant began coverage under Medicare in August 2020 and was insured at the time of the hearing (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant stopped health insurance coverage in April 2019, after Appellant was notified that Appellant was not eligible for subsidized health insurance due to tax filing status and that Appellant would have to repay the Advance Premium Tax Credits for 2018 and part of 2019. Appellant had monthly expenses, (including repayment of the APTC) of \$3,368. Appellant's monthly income before taxes was \$3,470. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-841

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

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

Hearing Date: November 12, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant Husband appeared at the hearing, which was held by telephone on November 12, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated October 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated July 12, 2020.

FINDINGS OF FACT

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

1. Appellant Husband turned 48 years old, Appellant Wife turned 42, and both resided in Plymouth County in 2019. (Exhibit 2).
2. Appellants filed their Federal Income Tax return as married filing jointly, with one dependent claimed, reporting an Adjusted Gross Income for 2019 of \$67,301. (Exhibit 2).
3. Appellant Husband was uninsured throughout 2019. (Exhibit 2; Appellant Testimony).

4. Appellant Wife was insured for the entirety of 2019 through her employer, with Appellants' dependent child covered under this policy. (Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant Husband did not have health insurance for the entirety of 2019, the three-month grace period is inapplicable and he is appealing a 12-month tax penalty for 2019. (Exhibit 2). Appellant Wife has not been assessed a penalty, as she had coverage during 2019.

In support of their appeal, Appellants claim that the individual mandate tax penalty does not apply because the cost of adding Appellant Husband onto Appellant Wife's employer-sponsored health insurance policy was not affordable for Appellants. (Exhibits 3; Appellants' Testimony).

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

Based on Schedule HC for 2019 Table 4, it would have cost Appellants, aged 48 and 42, and living in Plymouth County between \$768 and \$855 per month to purchase a family plan on the private insurance market. Based on the Affordability Schedule, Appellants filing the Federal tax return as married filing jointly, with one dependent, with an annual Adjusted Gross Income of \$67,301 could afford to pay \$418 monthly for a family insurance plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Accordingly, I conclude that private insurance was not affordable for Appellants in 2019.

Appellant credibly testified that the cost of his Wife’s insurance plan, which provides coverage for Appellants’ dependent child, is \$400 per month, with that cost increasing to \$900 per month were Appellants to add coverage for Appellant Husband. (Appellant Testimony). While I find that Appellants had employer-sponsored health insurance available to them, based on Appellants’ family size and Adjusted Gross Income, Appellants could afford to pay \$418 monthly for a family insurance plan, while the employer-sponsored plan covering all three family members would have cost them \$900 per month. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3.

According to Schedule HC for 2019 Table 2, I find that Appellants’ 2019 Adjusted Gross Income of \$67,301 made them ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$62,340 for a family of 3). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2. Appellant testified that he recently explored obtaining Connector Care for himself. (Appellant Testimony). Appellants are encouraged to follow up with guidance they receive from the Health Connector, as minor changes in their 2020 Adjusted Gross Income (“AGI”) over their 2019 AGI may mean they are now eligible for Connector Care, and may be able to secure a more affordable family plan through the Connector.

Since Appellants had access to employer-sponsored insurance in 2019, it must be determined whether Appellants experienced a financial hardship, such that Appellants were unable to bear the cost of otherwise affordable health insurance available to them. See 956 C.M.R. 6.08. Financial hardship considerations include situations where the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, or any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Appellants claims the following approximate monthly expenses in 2019: mortgage - \$2,000; electric - \$200; car payments - \$400; car insurance - \$200; phone - \$150; internet - \$100; food - \$400; health insurance for wife and minor - \$400. (Appellant Testimony). Appellants’ expenses for basic necessities in 2019 totaled \$3,8500, while their approximate monthly income after taxes would have been \$4,000. (Appellant Testimony). I find that Appellants have sufficiently demonstrated that the expense of purchasing health insurance would have caused them a serious deprivation of food, shelter or other necessities, constituting a financial hardship within the meaning of the statute. See 956 C.M.R. 6.08.

Accordingly, Appellants’ appeal is **UPHELD** and the 12-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-842

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

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

Hearing Date: November 12, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 12, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated October 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated June 28, 2020.
- Exhibit 4: Appellant's 2019 IRS Form 1095-B.
- Exhibit 5: 'Summary of Health Plan Payments' from health insurer dated January 11, 2019.
- Exhibit 6: Health Connector Open Record Request dated November 11, 2020.
- Exhibit 7: Appellant's 2019 IRS Form 1095-C.

FINDINGS OF FACT

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

1. Appellant turned 23 years old and resided in Norfolk County in 2019. (Exhibit 2).
2. Appellant filed her Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income for 2019 of \$42,352. (Exhibit 2).

3. Appellant had employer-sponsored health insurance January through May of 2019. (Appellant Testimony).
4. Appellant became unemployed as of May 31, 2019. (Appellant Testimony).
5. Appellant lived in Massachusetts January through July of 2019, when she moved out of state. (Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of her appeal, Appellant claim that the individual mandate tax penalty assessed does not apply because in 2019 she was a part-time resident of Massachusetts, and because she had health insurance during the months she was living in Massachusetts. (Exhibits 3-7; Appellant’s Testimony).

While the appeal case information from Appellant’s Schedule HC 2019 indicates that Appellant was uninsured the entire year, Appellant credibly testified, supported by documentary evidence, that she was insured through her employer’s plan from January through May of 2019. (Exhibits 3-7; Appellant Testimony). Appellant testified that she separated from her employer at the end of May of 2019, at which time she lost her employer-sponsored health insurance. (Appellant Testimony). Appellant submitted her 2019 IRS 1095-C Form indicating coverage from January through May of 2019, and has sufficiently established that she had health insurance during the period she resided in Massachusetts. (Exhibit 7). Accordingly, I find that a waiver of penalties assessed for the months of January through May is warranted.

Appellant credibly testified that after losing her job in May, she moved out of Massachusetts at the end of July. (Appellant Testimony). I find that waiver of penalties assessed for the months of August through December is warranted given that Appellant lived outside of Massachusetts during this period.

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, Appellant is entitled to and has been granted a three-month grace period. Appellant has been assessed a four-month tax penalty for 2019. (Exhibit 2).

Given my findings that penalties assessed from January through May of 2019 should be waived based on Appellant establishing that she had employer-sponsored health insurance during those months, and that waiver of penalties assessed from August through December of 2019 should be waived based on Appellant living out of state during this period, and given that Appellant is entitled to and has been granted a three-month grace period, I conclude that the entire four-month penalty assessed against Appellant for Tax Year 2019 should be waived.

Accordingly, Appellants' appeal is **GRANTED** and the four-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-844

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

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

Hearing Date: November 12, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants Husband and Wife both appeared at the hearing, which was held by telephone on November 12, 2020. The procedures to be followed during the hearing were reviewed with Appellants, who were sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellants' testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated October 14, 2020.
- Exhibit 2: Letter from Appellants serving as Statement of Grounds for Appeal dated July 7, 2020.
- Exhibit 3: Appeal Case Information from Schedule HC dated July 17, 2020 showing vacated dismissal.
- Exhibit 4: Appeal Case Information from 2019 Schedule HC.
- Exhibit 5: Appellant Wife's 2019 IRS Form 1095-C.

FINDINGS OF FACT

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

1. Appellant Husband turned 40 years old, Appellant Wife turned 31, and both resided in Suffolk County in 2019. (Exhibit 2).
2. Appellants married in August of 2019. (Appellants' Testimony).

3. Appellants filed their 2019 Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income of \$163,634. (Exhibit 2).
4. Appellant Husband was insured for all of 2019. (Exhibit 2; Appellant Testimony).
5. Appellant Wife was insured through her employer from January through June of 2019. (Exhibits 2-5; Appellant Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Appellant Husband had health insurance for the entirety of 2019 and has not been assessed a penalty. (Exhibit 4). Appeal case information from Schedule HC indicates Appellant Wife was uninsured for the entirety of 2019 and she is appealing a twelve-month tax penalty. (Exhibit 4).

In support of their appeal, Appellants claim that the individual mandate tax penalty assessed does not apply because Appellant Wife had employer-sponsored health insurance during a portion of 2019. (Exhibits 2 and 5; Appellants’ Testimony).

Appellants credibly testified that Appellant Wife had employer-sponsored health insurance from January through June of 2019, supported by submission of Appellant Wife’s 2019 IRS Form 1095-C showing coverage. (Exhibit 5; Appellant Testimony). Based on the testimony and 1095-C, I find that Appellant Wife had employer-sponsored health insurance from January through June of 2019, and penalties assessed from January through June should be waived. (Exhibit 5; Appellants’ Testimony).

Appellants credibly testified that Appellant Wife terminated her employer-sponsored health insurance in June in anticipation of her marriage, which took place in August of 2019. (Appellant Testimony). Appellants testified that Wife intended to enroll onto Husband’s policy thereafter, but missed the October special enrollment period deadline to add Appellant Wife onto Husband’s policy, due to a lengthy honeymoon. (Appellants Testimony). I do not find this a credible reason for failing to add Appellant Wife to Appellant Husband’s insurance policy, particularly where Appellant Wife terminated

her employer-sponsored insurance prior to the marriage date, and before Appellants left for their honeymoon. I conclude that waiver of penalties assessed from July through December is not warranted.

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant Wife had health insurance for a portion of 2019, she is entitled to a three-month grace period.

Given my findings that waiver of penalties assessed from January through June of 2019 should be waived based on Appellants establishing that Appellant Wife had employer-sponsored health insurance during those months, and that Appellant Wife is entitled to a three-month penalty waiver based on her having had coverage for a portion of the year, I conclude that all but three months of the twelve-month penalty assessed against Appellants for Tax Year 2019 should be waived.

Accordingly, Appellants' appeal is **UPHELD** in part and **DENIED** in part, and Appellant Wife's twelve-month penalty is **PARTIALLY OVERTURNED**.

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 2019 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-851

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: December 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 13, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 2, 2020, for the Appellant to submit a copy of her appeal letter. The Appellant did not submit any additional evidence by that date, and the record was closed on December 2, 2020.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 7/14/20 Request to Vacate; 1095-A (4 pages)
- Exhibit 3: 10/14/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Married Filing Joint with a family size of three. The Appellant's federal AGI in 2019 was \$70,684. The Appellant resided in Hampden County and turned thirty-one years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a six-month penalty against her on her 2019 income tax return. (Exhibit 2)
3. The Appellant has a nine-year old son who resided with her throughout 2019. (Appellant's testimony)
4. The Appellant was Single during the first ten months of 2019. (Appellant's testimony)
5. On November 17, 2019, the Appellant got married. Her husband did not reside with her until that time. (Appellant's testimony)

6. The Appellant had health insurance coverage through the Health Connector in 2019 during February, March and April, when she was single, for a monthly premium of \$168. The Appellant did not pay her premium for April because she could not afford to pay it. (Exhibit 2; Appellant's testimony)
7. The Appellant is appealing her tax penalty because she could not afford health insurance coverage in 2019, after losing her coverage at the end of April 2019. (Appellant's testimony)
8. The Appellant worked for two different employers in 2019, one during the first six months of 2019, and the second during the last six months of 2019. \$12,463 of her income in 2019 came from her first employer, and \$16,186 came from her second employer. (Appellant's testimony)
9. Both employers offered health insurance coverage to employees. The Appellant was eligible and the coverage would have cost her over \$100/monthly. The Appellant declined coverage because it was unaffordable for her. (Appellant's testimony)
10. The majority of her household income that was reported on their 2019 joint tax return came from her husband. (Appellant's testimony)
11. The Appellant's 2019 monthly expenses for basic necessities included: \$1,150, rent; \$200, utilities; \$120, Internet; \$140, phone; \$331, car payment; \$190, car insurance; \$100, gas; \$400, food; and, \$100, clothing, for a total of \$2,731 monthly and a total of \$30,041 for the first eleven months of 2019. (Appellant's testimony)
12. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since her household income was more than \$62,340 for a family size of three.
13. According to Table 3, Affordability, of the Schedule HC 2019, based on the Appellant's 2019 AGI and Married Filing Joint with one dependent tax filing status, the Appellant could have afforded to pay up to \$438/monthly for health insurance coverage in 2019.
14. According to Table 4, Premiums, health insurance coverage in the private market was available to the Appellant in 2019 for a monthly premium of \$279, based on her age and county of residence.
15. Based on the Appellant's representation at hearing that her 2019 income totaled \$28,649, and assuming that her family size was two (Appellant and one dependent) during the year, the Appellant could have afforded to pay a monthly premium of no more than \$102 for coverage in 2019.

ANALYSIS AND CONCLUSIONS OF LAW

M.G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable." Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

As the Appellant had a grace period for January 2019 and had health insurance coverage in February, March and April 2019, the Appellant had another three-month grace period from May through July 2019 to obtain new health insurance coverage. At issue here are the five months from August through December 2019, when the Appellant failed to have health insurance coverage.

Because the Appellant did not get married until November 17, 2019, the 2019 Schedule HC on their joint return, as well the results in the 2019 Tables, do not reflect the Appellant's actual situation for nearly all of 2019—that is, single with a young child. Up until November 17, the Appellant was single and residing with her son only. During the first six months of 2019, her monthly income averaged \$2,077; and, during the last six months of 2019, her monthly income averaged \$2,697. Most of the Appellant's household income reported on their 2019 joint return came from her husband, although they did not marry and reside together until very late in the year.

While the Appellant's income increased significantly during the last half of 2019, she could not have afforded health insurance coverage during this period, as she had no income left over after paying for the basic necessities for her and her son. In fact, the Appellant's \$2,731 monthly cost for basic necessities exceeded her monthly income of \$2,697. While the Appellant got married in late November and had additional household income as a result, this took place too late for the Appellant to obtain health insurance coverage for December 2019.

Therefore, I conclude that the Appellant has established that she could not have afforded to purchase health insurance coverage that met minimum creditable coverage standards during the last five months of 2019, under 956 CMR 6.8(1)(e).

Accordingly, the Appellant's 6-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-867

Appeal Decision Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 13, 2020

Decision Date: December 18, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 13, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 15, 2020
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated July 9, 2020
- Exhibit 4: Written Statement of Appeal
- Exhibit 5: Open Record Documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and is single. He lives in Norfolk County, Massachusetts.
2. Appellant works in the data analyst business but lost his job twice in 2019.
3. Appellant stated he had health insurance during part of 2019 through Northeastern University and was offered an extension of time to provide proof of said health insurance and did provide said documents, which indicated that Appellant did have health insurance from September 2018 through September 2019. (Exhibit 5)
4. Appellant does have health insurance in 2020.
5. The Appellant's monthly expenses totaled \$5,492.00, consisting of rent \$850.00, 2 car payments \$1,300.00, car insurance \$167.00 car gas \$300.00, food \$300.00, toiletries \$25.00 clothing \$100.00, entertainment \$400.00, credit card \$2,000.00. Appellant also paid \$25,000.00 for his girlfriend's expenses in 2019. Appellant paid \$30,000.00 for tuition in 2019. Appellant paid \$10,000.00 for travel in 2019.
6. The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal , " During 2019, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities."
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.
8. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$88,432.00 was more than \$36,420.00. The monthly premium for health insurance available on the private market in Norfolk County for a 31 year old single

person was \$279.00. The tables reflect that Appellant could afford \$589.54. This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the data analyst business and lost his job twice in 2019. Appellant stated he had health insurance during part of 2019 through Northeastern University and was offered an extension of time to provide proof of said health insurance and did provide said documents, which indicated that Appellant did have health insurance from September 2018 through September 2019.

The Appellant did submit a Statement of Grounds for Appeal-2019 under the grounds for Appeal, “During 2019, 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 2019, 150 percent of the FPL was \$18,210.00 for a single person with zero dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was

available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$88,432.00 in 2019, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2019 Massachusetts Schedule HC, Appellant could afford to pay \$589.54 monthly for health insurance. See 2019 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$279.00 monthly for coverage with zero dependents *Id.* at Table 4.

Appellants are subject to the tax penalty unless appellants demonstrate a hardship. 956 Mass. Code Regs. 6.07(1) (2008). To prevail on a hardship appeal, an appellant must establish that “based on all his circumstances, minimum creditable coverage was not affordable to him[er] because [s]he experienced a hardship.” *Id.* at 6.08(1). Appellant stated he had health insurance during part of 2019 through Northeastern University and was offered an extension of time to provide proof of said health insurance and did provide said documents, which indicated that Appellant did have health insurance from September 2018 through September 2019.

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-875

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 16, 2020

Decision Date: December 13, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 16, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

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

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 59-years-old, is single, and does not have children. In 2019, he resided in Bristol County, MA. He had health insurance in November and December, 2019. (Testimony, Exs. 1,2)
2. The appellant has worked as a self-employed pharmacist for most of his professional life. In the fall of 2018, the appellant lost all of his contracts for professional pharmacy services in the long-term care industry and had virtually no income. He looked for work in Massachusetts and eventually out of state, but could not find any business. He decided to return to school and obtained an MBA from an online university in April, 2019. The cost of his tuition was \$13,000.00. He also obtained certifications in real estate, life insurance and pharmacy to compensate for his sudden unemployment and loss of income. In order to cover his living expenses and tuition, he exhausted most of the funds in his retirement account. He was not eligible for unemployment compensation due to his status as an independent contractor. (Testimony)

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

3. The appellant was considering moving out of Massachusetts due to his employment situation when he obtained work in August, 2019. He enrolled in private health insurance for November and December, and has remained enrolled throughout 2020. (Testimony)
4. The appellant investigated health insurance options for 2019 and determined that a monthly premium would have cost approximately \$400.00-\$500.00/month which he could not afford. (Testimony)
5. The appellant estimates that two-thirds of his 2019 income was earned between August and December, after he returned to work. (Testimony)
6. The appellant reported an adjusted gross income of \$74,882.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$4140.00 for his mortgage which included real estate taxes (\$2900.00), homeowner's insurance (\$100.00), heat (\$135.00), electricity (\$80.00), water and sewer service (\$150.00), cable and internet services (\$225.00), automobile insurance (\$100.00), food (\$300.00) and gasoline (\$150.00). In addition, the appellant paid approximately \$100.00/month for his pharmacy license and continuing education costs. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. He also submitted a letter with his statement in which he stated in part that he has experienced losses and economic downturns before, but nothing on the scale of what he went through between 2018 and 2019.

The appellant did not have insurance from January through October. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for ten months, 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 has been a self-employed pharmacist for most of his professional life, and in the fall of 2018, all of his contracts for pharmacy services in the long-term care industry evaporated. He testified that he looked for work all over the state and eventually out-of-state, and could not find anything. He testified that he decided to go back to school and in April, 2019, he obtained an MBA from an online university. He testified that he also obtained certifications in real estate, life insurance and pharmacy. He testified that he

used most of the funds in his retirement account to cover his monthly expenses and his tuition. He testified that he was considering moving out of state when he landed work in August, 2019. Finally, he testified that he enrolled in private health insurance for November and December, 2019, and has remained enrolled throughout 2020.

The evidence provided by the appellant established that his income for 2019, \$74,882.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income above \$48,560.00 is deemed to be able to afford a monthly premium of \$499.21 (8.00% of \$74,882.00/12). Table 4 of the Premium Schedule indicates that a 58-year-old individual (the age of the appellant in 2019) in Bristol County (where the appellant resided in 2019) could have purchased private health insurance for \$418.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

Even though private 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 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if 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 2019 he incurred basic monthly expenses of approximately \$4140.00, and that his income from January through July when he was unemployed was approximately \$24,961.00 (one third of \$74,882.00). Those expenses were more than his regular monthly pre-tax income of approximately \$3566.00 for those months, thereby making a private health insurance premium of \$418.00/month unmanageable. Moreover, the appellant paid \$13,000.00 for his tuition which undoubtedly depleted his income during that time frame even further. 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).

It should be noted that in addition to enrolling in health insurance for the last two months of 2019, the appellant has remained enrolled throughout 2020, thereby demonstrating that the mandate to obtain insurance was not lost on him.

Based on the totality of the evidence, it is concluded that 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 2019 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 2019 for the amount equal to one half of the lowest cost health insurance plan available to

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-877

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 17, 2020
Decision Date: December 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 17, 2020. Appellant also appeared for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 19, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated July 23, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 35 and 27 years old in 2019. Appellants filed a Massachusetts 2019 tax return as married filing jointly with one dependent claimed (Exhibit 2).
2. Appellants resided in Norfolk County, MA in 2019 (Exhibit 2).
3. Appellants had an Adjusted Gross Income of \$134,111 in 2019 (Exhibit 2).
4. Appellant left a job in 2018 and was unemployed until July 2019 (Exhibit 4 and Testimony of Appellant).
5. During January through July, the family's only income was \$4,000 per month from Appellant spouse's job (Testimony of Appellant).
6. Appellants struggled to pay bills for basic expenses during January through July, when Appellant was unemployed (Testimony of Appellant).
7. Appellant began a new job in July 2019 and began coverage under employer sponsored health insurance in August 2020 (Testimony of Appellant).

8. During 2019, Appellants had the following expenses for basic necessities: mortgage \$2,000; condo fees \$500; utilities \$200; telephone \$200; food \$300; supplies \$200; car payment \$700; car insurance \$333; gasoline \$50; daycare \$2000. Appellants' expenses for necessities were \$6,483.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
10. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with one dependent with an adjusted gross income of \$134,111 could afford to pay \$894 per month for private insurance. According to Table 4, Appellants, aged 35 and 27 and living in Norfolk County could have purchased private insurance for \$713 per month.
11. Private insurance was considered to be affordable for Appellants in 2019 (Schedule HC for 2019).
12. According to Table 2 of Schedule HC for 2019, Appellants, while earning \$4,000 per month during January through July may have been eligible for government subsidized health insurance.
13. Appellant did not have health insurance for seven months in 2019 (Testimony of Appellant and Exhibit 2).
14. Appellant has been assessed a penalty for four months for 2019 (Exhibit 2).
15. Appellants filed a hardship appeal on July 23, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellants were considered able to afford private insurance. Additionally, Appellants may have been eligible for government subsidized health insurance during the time of Appellant's unemployment. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During January through July, Appellants struggled to pay for basic expenses. Appellants' monthly expenses were \$6,483 and during this time period, the family's income was \$4,000. Purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

Number of Months Appealed: 4/0

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-878

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: November 17, 2020
Decision Date: December 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 17, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated October 19, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated July 22, 2020
- Exhibit 4: Statement in Support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 25 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant had an Adjusted Gross Income for 2019 of \$39,960 (Exhibit 2).
3. Appellant came to Massachusetts from the E.U. in February 2019 for a short term job and Appellant was not sure how long the job would last (Exhibit 4 and Testimony of Appellant).
4. Appellant originally thought that the job would last a few months (Testimony of Appellant).
5. Appellant's job was extended until December 2019, and Appellant then went back to the E.U. (Testimony of Appellant).
6. Appellant was unable to find housing due to the uncertainty of the time period of Appellant's job and the short term nature of the job (Testimony of Appellant).
7. Appellant lived on a temporary basis in various locations, including in friend's homes, in a tent and in vehicles since Appellant did not have permanent housing (Exhibit 4 and Testimony of Appellant).

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

9. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$39,960 could afford to pay \$248 per month for private insurance. According to Table 4, Appellant, who was 25 could have purchased private insurance for a cost of between \$231 and \$257 per month, depending on which county Appellant lived in.

10. Private insurance may have been considered affordable for Appellant in 2019 (Schedule HC for 2019).

11. Appellant did not have health insurance for the eleven months of residence in Massachusetts in 2019 (Testimony of Appellant and Exhibit 2).

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

13. Appellant filed an Appeal on July 22, 2020 stating that Appellant had experienced a hardship of being homeless, and health insurance was not affordable to Appellant in 2019 (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Private health insurance may have been available to Appellant during the time of Appellant’s stay in 2019. However, due to the instability of Appellant’s employment and Appellant’s living situation, I find that Appellant suffered a hardship and health insurance was not affordable for 2019. See Schedule HC for 2019, 956 CMR 6.08 (1)(a), Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them in 2019 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years that Appellant lives and works in Massachusetts.

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-893

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

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

Hearing Date: November 19, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 12, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated October 20, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for Appeal dated July 27, 2020.

FINDINGS OF FACT

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

1. Appellant turned 54 years old and resided in Norfolk County in 2019. (Exhibit 2).
2. Appellant filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$35,408. (Exhibit 2).
3. Appellant began a new full-time job with an employer offering health insurance. (Appellant Testimony).

4. The Health Connector provisionally determined Appellant eligible for Connector Care. (Appellant Testimony).
5. After Appellant submitted income verification documents to the Health Connector, Appellant was determined to be ineligible for Connector Care. (Appellant Testimony).
6. Appellant had the following monthly expenses for basic necessities in 2019, totaling \$1,809 per month: rent - \$600; car insurance - \$85; food - \$500; child support - \$624. (Appellant's Testimony).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant claims that by the time he was given the final ineligibility determination from the Health Connector at the end of 2018, he had missed his employer's open enrollment period for 2019 coverage, and because the cost of purchasing health insurance was not affordable for him. (Appellant Testimony).

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

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

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 54 and living in Norfolk County, \$406 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$35,408, could afford to pay \$147 monthly for an individual plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was not affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$35,408 made him eligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that he received a preliminary Connector Care eligibility determination, testimony that is supported by the fact that his reported Adjusted Gross Income is under the Connector Care eligibility threshold, meaning that in 2019 he was eligible for subsidized Connector Care based on his income. (2019 Schedule HC Instructions and Worksheets, Table 2; Exhibit 2; Appellant Testimony). Appellant testified, however, that after submitting income verification documents to the Health Connector, he received an ineligibility determination. (Appellant Testimony). I find his testimony credible, given that he testified that even after receiving an ineligibility determination, he traveled to a Health Connector satellite office in an effort to determine the reason and reverse his ineligibility determination. (Appellant Testimony). Based on his testimony, I find that Appellant did not have access to Connector Care, despite his presumed eligibility based on Table 2 of the 2019 Schedule HC Instructions and Worksheets.

Appellant stated that while he was expending efforts trying to obtain Connector Care, he missed his employer's open enrollment period for 2019 coverage. (Appellant Testimony). Appellant was vague with respect to testifying whether he began his employment in October of 2018 or 2019, and was unable to provide the date of the missed open enrollment period. I do not credit his testimony in this area, particularly where Appellant stated during the hearing his objection to his employer's high deductible plan, providing this as a reason for his failing to enroll in the plan. (Appellant Testimony). Accordingly, I disregard Appellant's assertion that he missed his employer's open enrollment period, and find that Appellant had access to employer-sponsored health insurance in 2019, which he chose not to enroll in based on the cost.

Since Appellant had employer-sponsored health insurance in 2019, a determination must be made whether Appellant experienced a financial hardship such that he could not purchase otherwise affordable health insurance available to him. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Financial hardship considerations include situations where the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, homelessness, rent or mortgage payments in arrears for more than thirty days, receiving utility shutoff notices, incurring unexpected increases in essential expenses resulting from domestic violence, death of a family member, sudden responsibility for providing care for a family member or experiencing fire, flood or a natural disaster, or any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Appellant testified to having the following monthly expenses for basic necessities in 2019, totaling \$1,809 per month: rent - \$600; car insurance - \$85; food - \$500; child support - \$624. (Appellant's Testimony). Appellant's monthly net income in 2019 would have been approximately \$1,970. (Exhibit 2). I find that Appellant's 2019 income exceeds his expenses by a very narrow margin, and Appellant has sufficiently demonstrated that the cost of purchasing health insurance in 2019 would have caused him to experience a serious deprivation of food, shelter or other necessities. See 956 C.M.R. 6.08.

Based on the record before me, I conclude that in 2019, while Appellant had access to employer-sponsored health insurance, the expense of purchasing health insurance would have caused Appellant to experience a financial hardship as defined by 956 C.M.R. 6.08.

Accordingly, Appellants' appeal is **GRANTED** and the twelve-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

In light of Appellant's vague testimony regarding his employment start date, the dates of his Connector Care ineligibility determination, and his testimony that he had no coverage in 2020, Appellant is advised not to rely on a similar grant of leniency or hardship finding should he appeal the assessment of a penalty in any future tax year.

**Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-894**

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

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

Hearing Date: November 19, 2020

Decision Date: December 29, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 19, 2020. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing Dated October 20, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC.
- Exhibit 3: Statement of Grounds for the Appeal dated July 21, 2020.
- Exhibit 4 : Appellant letter in support of Appeal dated July 22, 2020.
- Exhibit 5: Bankruptcy discharge dated July 9, 2019.
- Exhibit 6: Copy of car loan statement dated June 19, 2020.

FINDINGS OF FACT

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

1. Appellant turned 54 years old and resided in Essex County in 2019. (Exhibit 2).
2. Appellant filed his 2019 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$47,489. (Exhibit 2).

3. In October of 2018, Appellant began a new job with an employer offering health insurance to employees working a certain number of weekly hours. (Appellant Testimony).
4. Appellant's employer did not provide Appellant with the requisite number of hours making him eligible for employer's health insurance until July of 2019. (Appellant Testimony).
5. Appellant was covered under his employer-sponsored health insurance plan September through December of 2019. (Exhibit 2; Appellant Testimony).
6. Appellant received a 'Chapter 7' bankruptcy discharge on July 9, 2019. (Exhibits 4 and 5).

In addition to the foregoing facts, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, and in particular Tables 1-6 which includes the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In support of his appeal, Appellant claims that due to the failure of his business and resulting bankruptcy filing, as well as the fact that he was working only part-time in the beginning of 2019, the cost of purchasing health insurance was not affordable for him in 2019. (Appellant Testimony).

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had health insurance for a portion of 2019, Appellant is entitled to a three-month grace period and is appealing a five-month tax penalty for 2019. (Exhibit 2).

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

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 54 and living in Essex County, \$406 per month to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with no dependents, with an annual Adjusted Gross Income of \$47,489 could afford to pay \$301 monthly for an individual plan. See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, I conclude that private insurance was not affordable for Appellant in 2019. See 2019 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2019 Adjusted Gross Income of \$47,489 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2019 was \$36,420 for an individual). See 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that after his business failed at the end of 2018 into 2019, he began working part-time for an employer offering health insurance to employees working a certain number of weekly hours. (Exhibit 4; Appellant Testimony). Appellant's employer did not provide him with the requisite number of weekly hours making him eligible for employer's health plan until July of 2019, at which time he signed up for coverage. (Exhibit 4; Appellant Testimony). Based on Appellant's credible testimony, I find that Appellant did not have access to employer-sponsored health insurance until August of 2019. Appellant is unsure why his employer-sponsored health insurance did not become effective until September of 2019; based on his credible testimony that he signed up for his employer's coverage as soon as he was eligible, I conclude that the delay was likely an administrative delay, rather than a delay on Appellant's part. (Exhibits 2 and 4; Appellant Testimony). Accordingly, I find that waiver of the penalty for the month of August is warranted.

Given my findings that purchasing private health insurance was not affordable for Appellant in 2019, and that he did not have access to employer-sponsored health insurance until August of 2019, where waiver of the August penalty is appropriate, Appellants' appeal is **GRANTED** and the five-month 2019 Tax Penalty is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-900

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: December 22, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 7/26/20 Appeal (4 pages)
- Exhibit 3: 10/14/20 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with a family size of one. The Appellant's federal AGI in 2019 was \$42,508. The Appellant resided in Middlesex County and turned thirty-six years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty against her on her 2019 income tax return. (Exhibit 2)
3. The Appellant is a non-resident alien who arrived to the United States on August 2, 2018. The Appellant has resided in Massachusetts since that time. (Appellant's testimony)
4. At the beginning of 2019, the Appellant worked as a fellow at a university near Boston. Her employer did not offer her health insurance coverage. Her employer told her that she needed to have health insurance coverage. As the Appellant had health insurance coverage already through a foreign provider and someone at work had told her that her foreign coverage was good enough for her employer, the Appellant did not seek any other health insurance coverage for 2019. (Appellant's testimony)

5. In early 2019, the Appellant filed her 2018 tax return in Massachusetts without being assessed a tax penalty for not having health insurance coverage in 2018. (Appellant’s testimony)
6. The Appellant maintained the health insurance coverage through the foreign provider throughout 2019. (Appellant’s testimony)
7. The Appellant worked as a pre-school teacher from the end of May 2019 through the rest of 2019. (Appellant’s testimony)
8. The Appellant did not learn about the individual mandate until February 2020, when she did her tax return for 2019. In response, the Appellant immediately purchased health insurance coverage for 2020 that met the requirements of the individual mandate. (Appellant’s testimony)
9. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since her income was more than \$36,420 for a family size of one.
10. According to Table 3, Affordability, of the Schedule HC 2019, based on the Appellant’s 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$269/monthly for health insurance coverage in 2019.
11. According to Table 4, Premiums, health insurance coverage in the private market was available to the Appellant in 2019 for a monthly premium of \$279, based on her age and county of residence.

ANALYSIS AND CONCLUSIONS OF LAW

M.G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable.” Residents who do not obtain insurance are subject to a tax penalty. Individuals have a three-month grace period to obtain new coverage, after their coverage has terminated.

While it is not clear why the Appellant was not assessed a tax penalty for at least one month when she filed her 2018 tax return in Massachusetts, it confirmed what someone had told her at work—that her foreign health insurance coverage should be sufficient to continue in 2019. While the Appellant might have taken additional steps to be sure, I find that it was reasonable for the Appellant to rely on this information in concluding that her foreign insurance coverage in 2018 met standards and that it was sufficient coverage for her to continue the coverage in 2019. The Appellant had no reason to believe otherwise until 2020, when she did her tax return for 2019.

Under these circumstances, as the Appellant reasonably believed that her foreign provider’s health insurance coverage met Massachusetts standards in 2019 and had no reason to conclude otherwise until she did her 2019 tax return, I conclude that it would not serve the purposes of the individual mandate to assess any tax penalty against the Appellant for 2019. 956 CMR 6.08(2)(c) & (d).

Accordingly, the Appellant’s 12-month penalty for 2019 shall be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-913

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: December 1, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2020.

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

Exhibit 1: Hearing Notice dated October 21, 2020 (2 pages)

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

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

Exhibit 4: Appellant's Supporting Letter (1 page)

Exhibit 5: Email from K Colannino re QBio Initiative Award (2 pages)

Exhibit 6: Emails to and from S Ramanathan, May 16, 2019 (1 page)

Exhibit 7: Harvard U. Non-Employee Reimbursement Form, Apr. 30, 2019 (2 pages)

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

Exhibit 8: Citi Prestige Card, April Statement 2019 (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 26 years old in June 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$47,620.00. (Exhibit 2).
4. The Appellant had health insurance during seven (7) months of tax year 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a two (2)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in August 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$47,620.00, could afford to pay \$306.60 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant was enrolled in employer-sponsored insurance as a graduate student through July 2019. Beginning in July 2019, employer-sponsored insurance was offered to the Appellant as a post-doctoral fellow by their new employer, a Massachusetts University, at a monthly cost of about \$200.00.
9. The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because their adjusted gross income of \$47,620.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 for a family of two in 2019. (Schedule HC, Table 2).

10. Ten thousand dollars (\$10,000.00) of Appellant's adjusted gross income in 2019 was an award they received as part of their graduate program to support their research. (Appellant's testimony and Exhibit 5).
11. The Appellant testified that they incurred expenses of about six thousand dollars (\$6,000.00) in connection with travel and graduate research efforts out of the country during spring 2019. They maintain that amount was reimbursable under the award of ten thousand dollars (\$10,000.00) they had received from their first employer in 2019 to support their graduate research work. (Appellant's Testimony and Exhibits 4, 7 and 8).
12. As a result of a disagreement between the Appellant and their first employer, the employer unexpectedly did not reimburse the expenses of six thousand dollars (\$6,000.00) Appellant had incurred. (Appellant's Testimony and Exhibits 4, 7 and 8).
13. The Appellant testified that as a result of the non-reimbursement of their out-of-country travel and research expenses, they unexpectedly had to incur credit card debt of about \$6,000.00 in order to pay their unreimbursed expenses. (Appellant's Testimony and Exhibits 7 & 8)
14. The Appellant became employed by a new employer beginning in July 2019. That employer offered the Appellant health insurance that cost about \$200.00 per month. (Appellant's Testimony). The Appellant testified that they did not believe they could afford to pay that insurance premium from August through December 2019 because they were paying down the credit card debt of \$6,000.00 on an installment basis. (Appellant's Testimony). Therefore, they did not enroll in their new employer's health insurance in 2019. (Appellant's Testimony). The \$200.00 insurance premium was affordable to Appellant according to Table 4 of Schedule HC for 2019.
15. The Appellant currently has insurance coverage through their new university employer.
16. The Appellant's living expenses of about \$900.00 per month in 2019 included cell phone - \$150 and food - \$600.00. (Appellant's Testimony).
17. The Appellant did not testify to any rent arrearages, utility shut-offs, or unexpected expenses because of care of a family member or natural disasters. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellant is appealing the assessed tax penalty of two (2) months. They checked the box on the Statement of Grounds for Appeal form saying that purchasing Massachusetts health insurance in 2019 would have caused them a deprivation of food and other living necessities. (Exhibit 3).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$47,620.00, could afford to pay \$306.60 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Middlesex County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellant in 2019.

Appellant was enrolled in employer-sponsored health insurance as a graduate student through July 2019. They became employed by a new employer, as a post-doctoral fellow, in July 2019. Their new employer offered insurance at a monthly cost of \$200.00, which was affordable to Appellant according to Table 4 of Schedule HC for 2019.

The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because their adjusted gross income of \$47,620.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

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

The Appellant's adjusted gross income was \$47,620.00. That total obscures the fact that \$10,000.00 of that amount was for a research award that was not made available to Appellant after their first employer declined to allow them to use the award money to reimburse research and out-of-country travel expenses amounting to about \$6,000.00. (Appellant's Testimony and Exhibits 4, 7 & 8). Thus, the Appellant testified that they unexpectedly had to pay the \$6,000.00 of expenses from their credit card, which they continued to do on an installment basis from August through December 2019. For this reason, they did not enroll in their new employer's health insurance in 2019. (Appellant's Testimony and Exhibit 4). After the Appellant caught up on their credit card debt in 2020, they enrolled in their new employer's health insurance program, in which they currently participate. (Appellant's Testimony).

Considering the totality of these circumstance and evidence presented in the administrative record, I conclude that Appellant has demonstrated financial hardship in 2019 within the meaning of 956 CMR 6.08 (1)(e) & 956 CMR 6.08(3). Therefore, their two (2)-month penalty assessment is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-914

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: December 4, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2020.

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

Exhibit 1: Hearing Notice dated October 21, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (4 pages)

Exhibit 4: Appellant's Supporting Letter (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 32 years old in December 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Essex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$55,057.00. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2 and Appellant's Testimony). The Appellant filed an appeal of that assessment in August 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$55,057.00, could afford to pay \$367.05 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 32, living in Essex County, could have purchased private market health insurance for \$279.00 per month. (Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant's employer offered health insurance at a monthly cost of about \$400.00 or \$500.00 dollars in 2019. (Appellant's Testimony and Exhibit 4). That amount was not affordable to the Appellant.
9. The Appellant was not eligible for government-subsidized ConnectorCare coverage in 2019 because their adjusted gross income of \$55,057.00 was greater than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant became employed as an hourly wage earner by a plumbing company at the beginning of 2019. (Appellant's Testimony and Exhibit 4). They were not eligible for health insurance for one hundred twenty (120) days after beginning employment. In any event, Appellant did not believe they could afford to pay the monthly cost of \$400.00 or \$500.00 for the insurance coverage and, therefore, did not enroll in the employer's health insurance program. (Appellant's Testimony and Exhibit 4).
11. The Appellant was incarcerated in a county correctional facility in December 2019. (Appellant's Testimony). I take administrative notice of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet (Schedule HC Instructions), which

state that “‘other government health coverage’ includes comprehensive government-subsidized plans such as care provided at a correctional facility.” Based on this information, I find that the Appellant had government-subsidized health coverage that met Minimum Creditable Coverage (MCC) standards during the period of their incarceration in December 2019. (2019 Schedule HC Instructions, p. HC-3).

12. The Appellant testified that a third party assisted in completing Appellant’s 2019 Schedule HC, and they did not understand about the tax forms and the Massachusetts Health Connector and how it works. I credit Appellant’s testimony and conclude that when they completed Appellant’s Schedule HC, they mistakenly indicated that Appellant had no health insurance coverage for twelve months in 2019, not understanding that Appellant had coverage during the period of their incarceration. (See Paragraph 11 above).
13. The Appellant’s 2019 monthly pre-tax living expenses of \$2,350.00 included: Rent - \$1200.00, Heat \$100.00, Electricity - \$80.00, Transportation/Lyft - \$100.00, Telephone - \$200.00, Cable/Internet - \$120, Food - \$300.00, Clothing/Other - \$200.00 and Student Loans - \$100.00. During 2019 the Appellant had additional costs of \$1200.00 for tools and his electrician journeyman’s license.
14. The Appellant was laid off from their job sometime in December 2019 and remains unemployed. (Appellant’s Testimony and Exhibit 4).
15. The Appellant became enrolled in MassHealth insurance during December 2019 and is currently enrolled in health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of twelve (12) months. They checked the box on the Statement of Grounds for Appeal form saying that purchasing Massachusetts health insurance in 2019 would have caused them a deprivation of food and other living necessities. (Exhibit 3).

As an initial matter, I note that based on the language of the Schedule HC Instructions (see Paragraph 11 above), the Appellant had MCC-compliant health insurance coverage during the

period of their incarceration (December 2019). Subtracting that one month from Appellant's twelve (12) penalty months leaves eleven (11) months during which the Appellant was uninsured. Applying the three-month grace period to the eleven (11) uninsured months prior to Appellant's incarceration leaves eight (8) uninsured months for which the Appellant would be assessed a penalty.

To determine if the eight (8)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

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

Appellant had an adjusted gross income of income of \$55,057.00 in 2019. The Appellant's monthly pre-tax living expenses were \$2,350.00. Additionally, they had expenses of \$1,200.00 in connection with purchasing and maintaining their electrician tools and journeyman's license. (appellant's Testimony and see paragraph 13). The Appellant was incarcerated in a correctional facility in December 2019, became unemployed sometime in December 2019 and remains unemployed currently, became enrolled in MassHealth insurance in December 2019 and testified that they are currently enrolled in health insurance. (Appellant's Testimony).

I conclude based on all of Appellant's circumstances evidenced in this administrative record, that Appellant has demonstrated that purchasing health insurance coverage during 2019 would have caused Appellant to experience a financial hardship pursuant 956 CMR 6.08 (1)(e) & (3). (1)(3).

For these reasons, the tax penalty for Appellant's eight (8) uninsured months is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-915

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 6, 2020

Decision Date: December 15, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2020.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection. Post-hearing, the Connector submitted two documents in response to an Open Record request, which have been added as Exhibits 8 and 9, and the Appellant submitted a cover letter with three documents attached, which has been added as Exhibit 10.

Exhibit 1: Hearing Notice dated October 21, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (2 pages)

Exhibit 4: Letter from VHI Healthcare, 1/20/20 (1 page)

Exhibit 5: VHI Membership Certificate (1 page)

Exhibit 6: VHI Direct Debit Account details (1 page)

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

- Exhibit 7: VHI Data Protection Statement (1 page)
- Exhibit 8: Appeal Case Info. from Sch. HC 2018 (1 page)
- Exhibit 9: DOR Documents 2018 incl. Statement of Grounds for Appeal (3 pages), MediCover Student Private Medical Insurance (2 pages) and Appellant's Supporting Letter (1 page)
- Exhibit 10: Appellant's Cover letter, received 12/8/20 (1 page), incl. Residential Tenancy Agreement, 9/3/18 (4 pages), Letter from Trinity College Dublin, 11/9/18 (1 page), and Electric bill debit confirmation, Electric Ireland, 9/6/18 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 34 years old in May 2019. The Appellant filed their Federal Income Tax Return as a single person with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$51,092.00. (Exhibit 2).
4. The Appellant did not have Massachusetts health insurance for nine months of 2019. (Exhibit 2 and Appellant's Testimony).
5. The Appellant has been assessed a five (5)-month tax penalty for 2019 according to Information from Schedule HC for 2019. (Exhibit 2). The Appellant filed an appeal of the assessment in July 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$51,092.00, could afford to pay \$340.61 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34, living in Middlesex County, could have purchased private market health insurance for \$279.00 per month.

(Table 4, Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

8. Appellant was enrolled in employer-sponsored insurance from September through November 2019. (Appellant's Testimony and Exhibit 2).
9. Appellant lived outside the country as graduate student in Ireland from January through August 2019. (Appellant's Testimony and Exhibits 8, 9 & 10). They were enrolled in private insurance through their university during that time. (Appellant's Testimony and Exhibits 4 - 8 (Appellant's Supporting Letter and MediCover Medial Insurance)).
10. The Appellant lived in Massachusetts only during the months of September through November 2019. (Appellant's Testimony and Exhibits 8-10). They were enrolled in health insurance through their employer during those months. (Appellant's Testimony and Exhibit 2).
11. The Appellant quit their Massachusetts job and moved back to Ireland in December 2019. (Appellant's Testimony and Exhibit 2).
12. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$51,092.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant is appealing the assessed tax penalty of five (5) months. They checked the box on the Statement of Grounds for Appeal form "Other," saying that applying the affordability tables in Schedule HC to them would be inequitable. (Exhibit 3 and Appellant's Testimony).

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

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

As an initial matter, I conclude based on the Appellant's Testimony and post-hearing documentation provided by both the Health Connector and the Appellant, that Appellant lived outside the United States from January through August 2019 and was a resident in Massachusetts only during the months of September through November 2019. (Appellant's Testimony and Exhibits 8 - 10). Moreover, they had private health insurance through their university in Ireland during those months as a graduate student. (Appellant's Testimony and Exhibits 4-7, 9). Additionally, I conclude that Appellant did not live in Massachusetts in December 2019, as they had quit their job and returned to Ireland then. (Appellant's Testimony, which I find credible). Based on the administrative record and these factual findings, I conclude that under G.L. c 111M, § 2, Appellant was not subject to the Massachusetts individual mandate from January through August 2019 and in December 2019. Further, the Appellant was enrolled in employer-sponsored health insurance during the only three months in 2019 that they lived in Massachusetts. (Appellant's Testimony and Exhibits 8-10). Therefore, I conclude that Appellant's five-month penalty should be waived entirely given that they did not live in Massachusetts during those months and, therefore, were not subject to the individual mandate during those months. G.L. c 111M, § 2.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-921

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 1, 2020

Decision Date: December 16, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 1, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 48-years-old, is single, and does not have children. He resided in Middlesex County, MA in 2019. He had minimum creditable coverage (MCC) health insurance from January through May, 2019. (Testimony, Ex. 2)
2. The appellant was employed from January through May, 2019 during which time he had employer health insurance. He left his position because his hours and pay were reduced. He anticipated finding new employment with health insurance soon thereafter, but was unable to land a job until October. During his period of unemployment, he did not receive unemployment compensation, and used all his reserves to cover his basic monthly expenses. (Testimony, Ex. 2)
3. The appellant started a new job in October and remained in that position until April, 2020, when he was laid off due to Covid. He was eligible for employer health insurance which cost approximately \$230.00/month, but did not enroll because he had to get back on his feet after his period of

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

unemployment and could not afford the cost. He did enroll in the employer's plan from January through April, 2020, when he was separated from his job. (Testimony)

4. The appellant reported an adjusted gross income of \$40,040.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)
5. In 2019, the appellant had regular monthly expenses of approximately \$2462.00 for rent which included heat (\$1600.00), electricity (\$45.00), cable and internet service (\$150.00), cell phone (\$18.00), automobile loan (\$349.00), automobile insurance (\$100.00), food (\$120.00) and gasoline (\$80.00). (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.

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

The appellant testified credibly that he was employed from January through May, 2019 during which time he had employer health insurance. He testified that he left his job because his pay and hours were reduced and anticipated finding another job with health insurance quickly. He testified that he was unemployed for the next four months and did not receive unemployment compensation, and spent most of his reserves on basic monthly expenses. He testified that he started a new job in October and was eligible for employer health insurance, but did not enroll because the cost was not affordable. Finally, he testified that he did enroll in the employer's insurance plan from January through April, 2020, when he was laid off from his job due to Covid.

The evidence provided by the appellant established that his income for 2019, \$40,040.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$36,421.00 and \$42,490.00 is deemed to be able to afford a monthly premium of \$248.58 (7.45% of \$40,040.00/12). Table 4 of the Premium Schedule indicates that a 47-year-old individual (the age of the appellant in 2019) in Middlesex County (where the appellant resided in 2019) could have purchased private health insurance for \$350.00 per month, more than the monthly amount deemed affordable from Table 3. Thus,

according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

The next issue to consider is whether the appellant had access to affordable employer health insurance in 2019. The appellant provided information which indicated that the approximate cost for an individual plan through his employer was \$230.00 per month.² Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2019 is considered to be affordable if the employee's contribution for an individual plan is 9.86% or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent.

In this case, the monthly cost for an individual plan through the appellant's employer was approximately \$230.00. That cost is less than 9.86% of the appellant's projected household MAGI for 2019 (i.e., 9.86% of \$40,040.00 is \$3947.00 or \$329.00/month).³ Hence, since the cost of employer insurance is less than \$329.00/month, he is considered to have had access to qualifying health insurance. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B).

Even though employer 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 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if 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 2019 he incurred basic monthly expenses of approximately \$2462.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$3337.00, thereby making an employer insurance premium of \$230.00/month seemingly manageable, the difference of \$875.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Furthermore, the appellant testified that after returning to work, he needed the income to recover from his period of unemployment during which time he was forced to deplete his reserves. Hence, it is concluded that the totality of the evidence presented by the

² Since the appellant no longer works for the employer, the record was not held open for information about the terms and conditions of employer health insurance available in 2019.

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

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, it is concluded that since the appellant could not have afforded private or employer health insurance, his request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2019, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 4

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-941

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 7, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on December 7, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on November 5, 2020, with attachments.
- Exhibit 4: Additional information submitted by the Appellant on December 4, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 34, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Middlesex county in 2019 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2019, the Appellant did not have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) standards for any months of tax year 2019 (Exhibit 2).
4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in November 2020 (Exhibits 2, 3).

5. The Appellant’s Federal Adjusted Gross Income for 2019 was \$31,775 (Exhibit 2 and Appellant Testimony).
6. The Appellant testified that they attended a university during tax year 2019 and had health insurance through the university. The Appellant explained that students were advised to use a tax service to file their income tax returns and the person assigned to the Appellant was from out of state and did not realize the proof of health insurance must be provided. The Appellant testified that they had submitted a copy of their 1099-HC for 2019 to the Appeals Unit a few days ago (Appellant Testimony).
7. The Appellant was informed that the document was not in their electronic case file at the time of the December 7, 2020 hearing but that the Appeals Unit would be contacted after the hearing concluded. The Appellant was also advised that if the Appeals Unit did not have the document, a Record Open Form would be sent to the Appellant to allow them to submit additional evidence.
8. On December 4, 2020, the Appellant had submitted a copy of their Form 1099-HC for 2019 verifying that the Appellant had health insurance that met MCC standards for all months of tax year 2019 (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

According to the information in the Appellant’s Schedule HC 2019, the Appellant did not have health insurance for any months of tax year 2019. Consequently, the Appellant was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty in November 2020. On December 5, 2020, the Appellant submitted a copy of their form 1099-HC 2019 to the Health Connector Appeals Unit. The document verifies that the Appellant had health insurance that met MCC standards for all months of tax year 2019. The Appellant should not be subject to a tax penalty for failing to have health insurance in tax year 2019.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-942

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 7, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 7, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on April 5, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 25 years old in February 2019. The Appellant filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$41,473 (Exhibit 2).
4. The Appellant had health insurance for the months of November and December but did not have insurance for the period of January through October in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in April 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person, with no dependents claimed, with an annual adjusted gross income of \$41,473 could afford to pay \$257 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Bristol County, could have purchased private insurance for \$257 per month for a single plan (Schedule HC for 2019). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare in tax year 2019 because their income of \$41,473 exceeded 300% of the federal poverty level which was \$36,420 for a household of one (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
9. The Appellant filed an appeal in April 2020 and alleged circumstances other than financial hardship as the basis for their appeal (Exhibit 3).
10. The Appellant testified that they changed jobs at the end of 2018 and there was a sixty-day waiting period to allow them to enroll in health insurance with their new employer. The Appellant said that they signed up but never received the paperwork. The Appellant said that they waited a month but ended up not getting insurance until November of 2019. The Appellant stated that they did not try to purchase health insurance on the private market. The Appellant said that they did not experience any financial hardship which would have precluded them from obtaining health insurance through the private market. I found the Appellant's testimony credible.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had health insurance in November and December but did not have health insurance for the period of January through October in tax year 2019. The Appellant has consequently been assessed a seven-month penalty. The Appellant submitted a statement of grounds for this appeal citing circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$41,473 could afford to pay \$257 per month for health insurance. In accordance with Table 4, the Appellant, age 25, living in Bristol County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.

The Appellant changed jobs at the end of tax year 2018 and testified credibly that there was a sixty-day waiting period to enroll in their new employer's health insurance plan. Accepting the Appellant's testimony, the Appellant likely did not have access to employer sponsored health insurance for the months of January and February in tax year 2019. The Appellant's income of \$41,473 was greater than 300% of the federal poverty level, which was \$36,420 in 2019. The Appellant was not eligible for ConnectorCare in tax year 2019 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04). Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

As noted above, the Appellant cited circumstances other than financial hardship as the basis for their appeal. The Appellant did not enroll in their employer's health insurance plan in a timely manner. Accepting the Appellant's testimony at face value, since there was a sixty-day waiting period and the Appellant started the job at the end of tax year 2018, the Appellant likely had access to employer sponsored health insurance as of March 2019. The Appellant was truthful regarding their failure to follow up on their enrollment. The Appellant acknowledged that they did not attempt to purchase health insurance through the private market. The Appellant said that they did not experience any significant financial hardship that would have prevented them from obtaining health insurance in tax year 2019. With income of \$41,473 and the fact that the Appellant could have purchased private insurance at a cost of \$257 per month, the Appellant has failed to demonstrate that the cost of purchasing health insurance for 2019 would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08. The Appellant's seven-month penalty is upheld.

PENALTY ASSESSED

Number of Months Appealed: 7 Number of Months Assessed: 8

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-943

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 7, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 7, 2020. The Appellant's friend appeared as a witness. The procedures to be followed during the hearing were reviewed with the parties who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant or their witness. The hearing record consists of the testimony of the Appellant and their witness; and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on July 31, 2020.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 30 in November 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Suffolk County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$45,757 (Exhibit 2).
4. The Appellant had health insurance for the months of November and December but did not have insurance for the period of January through October in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a seven-month tax penalty for 2019. The Appellant filed an appeal of the assessment in July 2020 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$45,757 could afford to pay \$290 per month for health insurance. In accordance with Table 4, the Appellant, age 30, living in Suffolk County, could have purchased private insurance for \$257 per month (Schedule HC for 2019). Private insurance was affordable for the Appellant in 2019.
8. The Appellant testified that their employer for the months of January through April did not offer health insurance. The Appellant explained that they changed jobs and there was a waiting period to be eligible for health insurance. The Appellant said that their employer enrolled them in November 2019 (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$45,757 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
10. The Appellant testified that they were brought to the United States by their former spouse. The Appellant said that they were living with their spouse and the spouse's parents until the marriage broke up and the Appellant was asked to leave the home prior to January 2019. The divorce was effective March 2019 and the Appellant said that they had significant legal bills. The Appellant said that they had no credit history and no car. The Appellant explained that they were homeless and trying to save money for first and last month's rent and a security deposit. In addition, the Appellant said that they also had to save to purchase a car. The Appellant used UBER for transportation until the car was purchased on May 1, 2019. The Appellant said that because they had no credit history, they had to pay \$13,000 cash for the car in addition to the cost for registration and insurance. The Appellant said that they were unable to secure an apartment prior to January 2020. The Appellant said that they stayed with friends occasionally but had to eat meals at restaurants and stay in motels until the Appellant had the money to secure a permanent home. The Appellant said that a family member died, and the Appellant traveled out of the country to make final arrangements. The cost of the trip, funeral and burial expenses was \$5,000. The Appellant's credible testimony is supported by documentary evidence submitted by the Appellant with their appeal request (Exhibit 4 and Appellant Testimony).
11. The Appellant's friend testified that they have been friends with the Appellant for a long time and can confirm that the Appellant's testimony regarding their circumstances was truthful. The Appellant's friend said that in addition to the other expenses, the Appellant forgot to mention that they were sending \$200-\$300 monthly to care for their mother, who lives out of the country. This country does not have health insurance and the Appellant's mother was required to pay cash for medical treatment. The Witness testimony was credible (Witness Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$45,757 could afford to pay \$290 per month for health insurance. According to Table 4, the Appellant, age 30, living in Suffolk County, could have purchased a private insurance plan for \$257 per month. See Schedule HC for 2019. Private insurance was affordable for the Appellant in tax year 2019.

The Appellant’s employer for the first four months of 2019 did not offer health insurance. The Appellant changed jobs in May and was enrolled in employer sponsored health insurance effective November 2019 when the employer’s eligibility waiting period ended. The Appellant did not have access to affordable employer sponsored health insurance for the period of January through October in tax year 2019.

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

The Appellant testified credibly that they came to the United States at the behest of their former spouse and was living with their former spouse’s family prior to when the marriage ended. The Appellant was asked to leave the home and was homeless for the year 2019. The Appellant incurred significant legal expenses for the divorce. Due to their lack of a credit history the Appellant had to save money to purchase a car. The Appellant paid \$13,000 for the car on May 1, 2019. The Appellant had to save for first and last month’s rent in addition to a security deposit. The Appellant remained homeless until January 2020. 956 CMR 6.08(1)(a). Although the Appellant’s parent is living outside the United States, the Appellant was sending \$200-\$300 monthly to help their parent pay their healthcare expenses. 956.CMR 6.08(3). The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant’s seven-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

Number of Months Appealed: ____7____ Number of Months Assessed: __0____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-944

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 7, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 7, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 6, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated March 7, 2020.
- Exhibit 4: Appellant's letter in support of this appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 27 in 2019, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$38,618 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2019 and is being assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in March 2020 (Exhibits 3, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$38,618 could afford to pay \$240 per month for health insurance. In accordance with Table 4, the Appellant age 27, living in Plymouth County, could have purchased private insurance for \$257 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
8. The Appellant testified that they had no access to employer sponsored health insurance in tax year 2019 (Appellant Testimony).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified that they live with a partner and their two children. The Appellant explained that their youngest child was born in January 2019. With living expenses and expenses for two children the Appellant said they could not afford another bill for health insurance. I found the Appellant credible (Exhibit 4 and Appellant Testimony).
11. In tax year 2019 the Appellant did not have access to affordable health insurance through the private market, their employer, or a government sponsored program. See Tables 3 and 4 of Schedule HC-2019 (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.

The Appellant filed their 2019 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2019 and consequently has been assessed a twelve-month penalty. The Appellant has appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$38,618 could afford to pay \$240 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Plymouth County, could have purchased private insurance for \$257 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant did not have access to affordable employer sponsored insurance in tax year 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$38,618 was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019.

The Appellant had no affordable health insurance available to them in tax year 2019 through employment, the private market or through a government program such as ConnectorCare. Because of this, the twelve-month penalty must be waived in full. See Massachusetts General Laws, Chapter 111M, Section 2. Since the penalty is waived, there is no need to determine if Appellant experienced a financial hardship in 2019.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-945

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 7, 2020

Decision Date: December 14, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 7, 2020. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 6, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on August 10, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 36 in July 2019, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Essex County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$33,678 (Exhibit 2).
4. The Appellant did not have insurance for any months in tax year 2019 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2019. The Appellant filed an appeal of the assessment in August 2020 (Exhibits 2, 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

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

7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$33,678 could afford to pay \$140 per month for health insurance. In accordance with Table 4, the Appellant, age 36, living in Essex County, could have purchased private insurance for \$286 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.
8. The Appellant testified that their employer for the months of January through March offered health insurance at a cost of \$179 bi-weekly. This is more than the \$140 deemed affordable to the Appellant in accordance with Table 3 of Schedule HC for 2019 (Appellant Testimony).
9. The Appellant said that they changed jobs in March and their employer for the period of April through December did not offer health insurance. The Appellant testified that they work in a restaurant and the business tends to slow down during the fall and winter (Appellant Testimony).
10. The Appellant would have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$33,678 was less than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019. (See Table 2 of Schedule HC-2019 and 956 CMR 12.04).
11. The Appellant's 2019 monthly expenses included: rent-\$1800; heat -\$200 in the winter and \$50-\$60 in the summer; electricity- \$30- \$40; telephone-\$60; and food-\$200-\$300. The Appellant explained that they do not own a car and used bus transportation for about six months at a monthly cost of \$507. The Appellant was able to use the MBTA for the other six months at a cost of about \$76 per month. The Appellant testified that they struggled to meet their expenses and could not afford to pay for health insurance. The Appellant was unaware of the ConnectorCare program. I found the Appellant to be credible (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$33,678 could afford to pay \$140 per month for health insurance. According to Table 4, the Appellant, age 36, living in Essex County, could have purchased a private insurance plan for \$286 per month. See Schedule HC for 2019. Private insurance was not affordable for the Appellant in tax year 2019.

The Appellant's employer for the first quarter of 2019 offered health insurance at a bi-weekly cost of \$179. This is more than the \$140 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2019. The Appellant's employer for the period of April through December did not offer health insurance to the Appellant. The Appellant did not have access to affordable employer sponsored health insurance in 2019. The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant's income which was less than \$36,420 for their household of one. See Table 2 of Schedule HC 2019 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2019, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified credibly that they work in the restaurant business which tends to be seasonal due to the location. The Appellant's income fluctuated. The Appellant does not own a car. The Appellant verified substantial living and transportation expenses and testified credibly that due to their limited income they struggled to meet these expenses. The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship. The Appellant's twelve-month penalty is waived. See 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

ADDENDUM

The Appellant is reminded that it is Open Enrollment for 2021 at the Health Connector. The Appellant is encouraged to apply for ConnectorCare online at: my.mahealthconnector.org/enrollment -assistors or contact Health Connector Customer Service at 1-877-623-6765

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-947

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 9, 2020

Decision Date: December 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 9, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC ¹

Exhibit 3: Statement of Grounds (with attachment)

Exhibit 4: Appellant's 2019 1095-HC

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 62 at the end of 2019.
2. During 2019, Appellant lived in Worcester County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$41,294. See Exhibit 2

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point during 2019.
6. At the start of 2019, Appellant was unemployed and was collecting unemployment compensation. He had been laid off from his previous job in November 2018.
7. In July 2019, Appellant obtained a new position. That job offered him health insurance.
8. Appellant's new employer offered several insurance options. Appellant chose the lowest-cost option. This plan cost him approximately \$115 a month. Exhibit 2.
9. Under this plan, Appellant's benefits were limited to fixed dollar amounts for particular medical services. For instance, if a covered person were hospitalized, the plan would pay only \$400 a day for the first three days of coverage and then \$200 a day thereafter. If a covered person had surgery, the plan would pay only \$500 for an inpatient (in hospital) procedure or \$200 for an outpatient procedure.
10. Appellant realized during the cost of 2019 that the benefit he was receiving was limited. As a result, when he had the opportunity to change plans at the end of calendar year 2019, he did so and got a more expensive plan that cost him approximately \$400 a month. He believed that this plan satisfied Massachusetts coverage standards.

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

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain "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.

First, I must determine whether Appellant had affordable insurance available to him during 2019. In order to do this, I must consider whether Appellant could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

To determine whether Appellant could have obtained affordable employer sponsored insurance, I must consider separately the periods of the year when he was unemployed and when he was employed. During the first six months of the year when he was unemployed, Appellant did not have employer-sponsored insurance available.

However, when he obtained employment in July, he was offered insurance. Unfortunately he chose insurance that did not meet Massachusetts "minimum creditable coverage" standards.

Under the individual mandate law, residents must obtain “creditable coverage” if it is affordable to them. M.G.L. c. 111M, § 2(a). “Creditable coverage” is defined as a plan which meets the definition of “minimum creditable coverage” (or “MCC”) under regulations promulgated by the Health Connector’s board. M.G.L. c. 111M, § 1. The Health Connector’s regulations are promulgated at 956 CMR 5.00. Those regulations establish a set of criteria that an insurance plan must meet in order to be considered MCC compliant. The plan that Appellant chose in July 2019 did not meet certain of these standards. For instance, under the regulations, a plan is not MCC compliant if it places an annual dollar limit on coverage for a “core service.” 956 CMR 5.03(1)(c)(2). Core services, as defined in the regulations, include “physician services, inpatient acute care services, day surgery, and diagnostic procedures and tests.” 956 CMR 5.02. As found above, the plan Appellant chose put dollar limits on the amount of money available for hospitalizations and surgeries. This is inconsistent with the regulations and as a result the plan is not MCC compliant.

Instead of choosing the non-MCC compliant insurance plan offered by his employer, Appellant could have chosen a more expensive plan that did meet those standards. He did so at the end of 2019 for coverage effective in 2020. That coverage cost him \$400 a month. However, in 2019, Appellant would not have been able to afford that coverage based on affordability standards set by the Health Connector in accordance with state law. M.G.L. c. 111M. Under those standards, an individual such as Appellant who was in a household of one person and had income of \$41,294 was deemed able to afford 7.45 percent of income for health insurance. In this case, that amounted to \$3,076 annually or \$256 a month. Thus, the \$400 monthly premium would have been deemed unaffordable for him in 2019.

Next I must determine if Appellant could have obtained government-subsidized insurance. I conclude he would not. His annual income in 2019 was above \$36,420, which is 300 percent of the federal poverty limit for a person like Appellant in a household of one. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

Finally, I conclude that he would not have been able to afford unsubsidized insurance purchased on the non-group market using state affordability standards. As stated above, under those standards, Appellant would have been able to afford \$256 a month for health insurance in 2019. During that year, an individual like Appellant who was 62 years old and living in Worcester County would have had to pay \$418 a month to obtain insurance on the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have been unaffordable.

Thus, I conclude that Appellant would have been unable to afford insurance meeting MCC standards during 2019. Accordingly, he should not be subject to the individual mandate penalty for that year, and I will waive that 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-948

Appeal Decision The appeal is denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 9, 2020

Decision Date: December 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants are a married couple, who will be referred to in this decision as Husband and Wife. Wife appeared at the hearing, which was held by telephone, on December 9, 2020. The hearing record consists of the testimony of Wife, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹

Exhibit 3: Statement of Grounds (with attachments)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were a married couple. Husband was 36 years old and Wife was 32 years old at the end of 2019.
2. During 2019, Appellants lived in Norfolk County.
3. Appellants filed their 2019 Massachusetts taxes as married filing jointly with no dependents.
4. Appellants reported on their Massachusetts tax return and Wife confirmed at the hearing that they had adjusted gross income in 2019 of \$150,231. See Exhibit 2. The reported income all came from money earned by Wife because Husband was a student and not earning income during the year.
5. Appellants reported in the Schedule HC that they filed with their 2019 state income taxes that they had health insurance meeting minimum creditable (MCC) standards for the months of

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

January and February of 2019, and did not have health insurance for the remaining 10 months of the year.

6. In 2019, Wife worked in the dental field. She was not offered health insurance through her work.
7. Husband attended school during 2019. He did not have employment in that year through which he could have obtained health insurance.
8. At the start of 2019, Appellants were enrolled in a health insurance plan that they obtained through the Health Connector. Their monthly premium for that coverage was \$487. The plan they had chosen was a “bronze” plan, which means that it was a lower premium but had a deductible applying to health coverage. As a result, when Wife sought medical services in the February, she had to pay \$75 for those services because she was still within the deductible period. Exhibit 3 (statement from Steward Medical).
9. As a result of this, Appellants decided to cancel their health insurance and stopped paying the premium as of March 2019. They did not obtain new health insurance for the remainder of the year.
10. During 2019, Husband was required to pay off a student loan that he had taken out to finance his education. The student loan payment was \$315 a month. Exhibit 3 (billing summary from Aspire).
11. Appellants paid \$2,000 a month for rent and utilities. Wife stated that she sent money to her parents overseas during 2019.
12. In January 2020, Husband started a new job through which he gets health insurance. During 2020, Appellants moved out of Massachusetts to Connecticut.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellants’ case, they reported on their Schedule HC that they were without insurance for 10 months each in 2019. Because they are each entitled to a three-month gap without penalty, they have each been assessed a penalty for only seven months.

First, I must determine whether Appellants had affordable insurance available to them during 2019. In order to do this, I must consider whether Appellants could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2019, Wife's employment did not offer her insurance and Husband was a student. As a result, neither of them had access to employer-sponsored insurance. Further, Appellants would not have been eligible for government-subsidized insurance during 2019. Their annual income in 2019 was \$150,213. That amount is above \$49,380, which is 300 percent of the federal poverty limit for a household like Appellants' with two persons. (I obtain the figure of \$49,380 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellants would have been able to afford unsubsidized insurance purchased on the non-group market using state affordability standards promulgated by the Health Connector board in accordance with M.G.L. c. 111M. Under those standards, persons like Appellants who live in a household of two persons and make \$150,213 a year are deemed able to afford 8 percent of their income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellants' case, that amounts to \$12,017 or a little over \$1,000 a month. During 2019, persons like Appellants who were in a married couple in which the older spouse was 36 years old and who lived in Norfolk County could have obtained health insurance for \$572. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellants.

Because I have concluded that Appellants could have obtained affordable health insurance in 2019, but didn't, I must determine whether they have stated grounds to waive the individual mandate penalty. To meet that standard, Appellants must establish that their circumstances were such that purchasing health insurance would have been a "hardship." 956 CMR 6.08(1). Appellants have not met that standard. As demonstrated above, their income was high and they could comfortably afford health insurance. In fact, they were paying for health insurance for the first two months of the year, but opted to drop that insurance. They have pointed to their household expenses as grounds for appeal. But their rent was not unusually high, in view of their salary; further, the state affordability standards take into account housing costs in determining what portion of income a person can afford to spend on health insurance. Appellants also note that Husband was repaying a student loan. However, the amount of that loan payment was \$315 monthly; as discussed above, Appellants were deemed able to afford \$1,000 for health insurance and were only paying a premium of \$487, so the purchase of health insurance would not have left them with insufficient money to repay the loan. Wife noted that she was sending money to her parents overseas to compensate them for having paid for her education. This is commendable, but it is a voluntary decision; further she had no documentation to establish the amount of that payment. As a result, I do not consider that circumstance to have created a hardship preventing Appellants from purchasing health insurance. Finally, Appellants claim that they are healthy people. This is not a ground for failing to have health insurance, which will protect people from incurring significant or unaffordable costs for unanticipated health care problems.

After considering all the evidence, I conclude that the purchase of health insurance would not have created a hardship for Appellants. Further, I conclude that there are no circumstances that would have made health insurance unaffordable for them. 956 CMR 6.08(3). Accordingly, I am denying this appeal.

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 overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-949

Appeal Decision The appeal denied.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 9, 2020

Decision Date: December 11, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants, a married couple, both appeared at the hearing, which was held by telephone, on December 9, 2020. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹

Exhibit 3: Statement of Grounds (with attachments consisting of a written statement and various receipts, bills, and other financial documents)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were a married couple. Husband was 59 years old and Wife was 56 years old at the end of 2019.
2. During 2019, Appellants lived in Plymouth County.
3. Appellants filed their 2019 Massachusetts taxes as married filing jointly with two dependents. The dependents were their two minor children.
4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2019 of \$159,978. See Exhibit 2.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellants reported in the Schedule HC that they filed with their 2019 state income taxes that they did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.
6. Husband ran his own business providing personal health-related services to clients. His income varied as it depended on the number of clients he saw. Appellants estimated that he earned about \$66,000 total in 2019. See also Exhibit 3 (earning statements for Husband).
7. At the start of 2019, Wife was unemployed and was collecting unemployment of \$795 a week. See Exhibit 2 (unemployment compensation payment summary). This continued until the middle of May, at which point, she began working in a temporary position earning \$1,412 a week. She remained in that position through the middle of September, at which point she began another temporary position, which paid somewhat more than that. She remained in that position through the remainder of the year.
8. Appellants stated that at the start of 2019, they attempted to obtain government-subsidized health insurance, but they did not qualify. However, their children obtained coverage through the Children Health Insurance Program, which is government-subsidized.
9. During 2019, Appellants had a number of significant expenses. Their monthly mortgage was \$2,655. Additionally, they were repaying a home improvement loan at \$243 a month. They owned two cars. On one car, they had to make loan payments of \$454 a month. On another, they paid \$1,043 monthly on a lease. Husband had student loans, which required a payment of \$149 a month.
10. Additionally, in 2019, they were required to pay 2018 taxes. Their tax liability was high because they had not made sufficient estimated tax payments over the course of 2018 to account for the fact that Husband, as a self-employed individual, did not have taxes deducted from his earnings on a regular basis. As a result, they had to set up a payment plan to pay their federal taxes, which cost them an additional \$290 a month. Exhibit 3 (IRS notice re installment plan). Further, Appellants produced evidence of a number of credit card statements and invoices, demonstrating that they were incurring significant consumer debt on a regular basis.
11. During 2019, Appellants made the decision to take an early withdrawal of \$14,564 from retirement accounts in order to cover their ongoing expenses, in particular their 2018 tax liability. Exhibit 2 (Form 5329). This will in turn lead to higher tax liability for 2019 because of penalties.
12. At the end of 2019, Wife began full-time employment through which she obtained health insurance. Appellants were enrolled in health insurance as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain “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.

First, I must determine whether Appellants had affordable insurance available to them during 2019. In order to do this, I must consider whether Appellants could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2019, Wife was either unemployed or working in temporary positions that did not offer health insurance as a benefit. Husband was self-employed. Thus, neither of them had access to employer-sponsored insurance. Further, Appellants would not have been eligible for government-subsidized insurance during 2019. Their annual income in 2019 was \$159,978. That amount is above \$75,300, which is 300 percent of the federal poverty limit for a household like Appellants' with four persons. (I obtain the figure of \$75,300 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellants would have been able to afford unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, persons like Appellants who live in a household of four persons and make \$159,978 a year are deemed able to afford 8 percent of their income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellants' case, that amounts to \$12,798 or \$1,066 a month. During 2019, persons like Appellants who were in a family in which the oldest member was 60 years old and who lived in Plymouth County could have obtained health insurance for a premium of \$992 a month. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellants.

Because I have concluded that Appellants could have obtained affordable health insurance in 2019, but didn't, I must determine whether they have stated grounds to waive the individual mandate penalty. To meet that standard, Appellants must establish that their circumstances were such that purchasing health insurance would have been a "hardship." 956 CMR 6.08(1). I determine based on all the circumstances that Appellants have met that standard.

Although Appellants' reported annual income was high, I conclude that they still experienced financial strain. For one thing, their income was variable and unpredictable. It was lower in the first five months of the year, when Wife was unemployed. Moreover, Husband's income varied due to the nature of his business. Moreover, the income figure includes a \$14,564 early withdrawal from a retirement account, which was used to pay outstanding obligations, including tax liability. Rather than demonstrating high income, the fact that Appellants were forced to make an early withdrawal from retirement savings—and thereby incur future tax penalties—is a sign of financial hardship.

Moreover, even given their income, Appellants had unusually high expenses. In addition to normal expenses of a mortgage and other household necessities, they had significant debt, including student loan, car loan, car lease, and credit card liability. Additionally, they were required to make monthly payments on an installment plan to reduce the previous year's tax liability. As noted above, using state affordability standards, their ability to afford health insurance was marginal; they were deemed able to afford \$1,066 a month, and a family plan would have cost them \$992 a month, leaving only a cushion of \$74 a month. Given the unusual expenses demonstrated above, I conclude that the purchase of health insurance would have caused a financial hardship.

Because I conclude that the purchase of health insurance would have created a hardship for Appellants, I determine that the individual mandate penalty assessed against them should be waived in its entirety. Accordingly, I am allowing this appeal.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-970

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 15, 2020

Decision Date: December 28, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 15, 2020, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 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 31-years-old, is single, and does not have children. In 2019, she resided in Suffolk County, MA from January through September and in Middlesex County, MA for the rest of the year. She had minimum creditable coverage (MCC) health insurance from September through December, 2019. (Testimony, Ex. 2)
2. In 2018, the appellant was employed until September when she resigned from her position in order to go to Viet Nam to see her mother who was sick. She returned to Massachusetts before the end of the year. She had employer health insurance until her resignation. (Testimony)
3. The appellant believed that she would find employment quickly after she returned from her trip, but was unable to find a job until mid-August, 2019. She did not apply for unemployment insurance benefits and lived off approximately \$12,000.00 of income from securities that she sold from her portfolio. (Testimony)

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

4. The appellant investigated her eligibility for health insurance through the Health Connector and did not qualify because she missed the open enrollment period which ended on January 23, 2019. She also investigated private health insurance and determined that a monthly premium would cost a minimum of \$300.00 which she could not afford due to limited funds. (Testimony)
5. The appellant returned to work in mid-August, 2019 and had employer health insurance from September for the rest of the year. She remained employed and insured throughout 2020. (Testimony)
6. The appellant reported an adjusted gross income of \$50,686.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
7. In 2019, the appellant had regular monthly expenses of approximately \$1024.00 for rent which included heat and utilities (\$500.00), cable and internet services (\$40.00), transportation pass (\$84.00), and food (\$400.00). In addition, the appellant sent \$250.00/month to her mother in Viet Nam and paid approximately \$150.00/month for credit card debt. (Testimony, Ex. 1)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2019 because the expense of purchasing health insurance would have caused a serious deprivation of food, clothing, shelter or other necessities. She also submitted a letter with her statement in which she stated in part that she used her life savings to cover her necessities during her period of unemployment, and could not afford approximately \$300.00/month for health insurance.

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

The appellant testified credibly that she resigned from her position in September, 2018, in order to visit her ailing mother in Viet Nam. She testified that following her return to Massachusetts, she anticipated finding employment quickly, but was unable to get a job until mid-August, 2019. She testified that she did not file for unemployment insurance and lived off the income from securities that she sold from her portfolio. She testified that she investigated her eligibility for health insurance through the Health Connector and was not eligible because the open enrollment period had closed. She testified that she also investigated private health insurance and determined that a monthly premium would have cost her approximately \$300.00/month which she could not

afford. She testified that she enrolled in employer health insurance after she started her new job, and remained employed and insured throughout 2020.

The evidence provided by the appellant established that her income for 2019, \$50,686.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income above \$48,560.00 is deemed to be able to afford a monthly premium of \$337.91 (8.00% of \$50,686.00/12). Table 4 of the Premium Schedule indicates that a 30-year-old individual (the age of the appellant in 2019) in Suffolk County (where the appellant resided in 2019 prior to returning to work) could have purchased private health insurance for \$257.00 per month, less than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

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

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that in 2019 she incurred basic monthly expenses of approximately \$1424.00 including her credit card debt and her payments to her mother. She testified that she lived on \$12,000.00 of income from liquidation of her securities during her eight months of unemployment, or \$1500.00/month. Hence, her expenses were only \$76.00 less than her regular monthly pre-tax income of approximately \$1500.00, thereby making a private health insurance premium of \$257.00/month unmanageable. Accordingly, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).²

Based upon the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

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

² It is also noted that the appellant enrolled in employer health insurance upon her return to work in 2019 thereby demonstrating that the mandate to obtain insurance was not lost on her.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-1006

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 23, 2020

Decision Date: December 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 23, 2020. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹
- Exhibit 3: Statement of Grounds (with attachments consisting of a written statement and various receipts, bills, and other financial documents)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old at the end of 2019.
2. During 2019, Appellant lived in Plymouth County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$53,550. See Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

6. Appellant worked throughout 2019 for a small business. That employer did not offer him health insurance.
7. Appellant testified credibly that, during 2019, he lived with his two minor children and their mother, and he contributed to the support of the entire household.
8. Further, during 2019, he was solely responsible for the expenses, including the mortgage, taxes and upkeep, of a house that he jointly owned with his father. He also made payments on a car loan and insurance. He produced receipts demonstrating the size of these expenditures. Exhibit 3.
9. Appellant testified credibly that he had obtained insurance for 2020 at the end of 2019, and he was enrolled in that insurance at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain “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.

First, I must determine whether Appellant had affordable insurance available to him during 2019. In order to do this, I must consider whether Appellant could have obtained affordable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2019, Appellant worked at a job that did not offer him health insurance. Accordingly, he did not have access to employer-sponsored insurance. Further, Appellant would not have been eligible for government-subsidized insurance during 2019. His annual income in 2019 was \$53,550. That amount is above \$36,420, which is 300 percent of the federal poverty limit for a household like Appellant’s with one person. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant would have been able to afford unsubsidized insurance purchased on the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, a person like Appellant who lived in a household of one person and made \$53,550 a year was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellant’s case, that amounts to \$4,284 or \$357 a month. During 2019, a person like Appellant who was 31 and lived in

Plymouth County could have obtained health insurance for a premium of \$279 a month. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because I have concluded that Appellant could have obtained affordable health insurance in 2019, but didn't, I must determine whether he has stated grounds to waive the individual mandate penalty. To meet that standard, Appellant must establish that his circumstances were such that purchasing health insurance would have been a "hardship." 956 CMR 6.08(1). I determine based on all the circumstances that Appellant has met that standard. Appellant established that he had high monthly expenses. During 2019, he assumed full responsibility for maintaining the house that he jointly owned with his father. Additionally, Appellant testified credibly that he supported his two children and their mother. As noted above, the analysis of what he could afford for health insurance rests on the assumption that he is in a household of one person, because he filed his taxes as a single person with no dependents. But in fact he was supporting a household of four persons, which meant that he would have less money available for health insurance.

Based on the foregoing, I conclude that the purchase of health insurance would have created a hardship for Appellant. Therefore, I determine that the individual mandate penalty assessed against him should be waived in its entirety. Accordingly, I am allowing this appeal.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1011

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 23, 2020

Decision Date: December 31, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant and his wife both appeared at the hearing, which was held by telephone, on December 23, 2020. The hearing record consists of the testimony of Appellant and Wife, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹
- Exhibit 3: Statement of Grounds (with attachments consisting of a written statement and various receipts, bills, and other financial documents)
- Exhibit 4: 2019 1095-C form issued to Wife

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 29 at the end of 2019.
2. During 2019, Appellant lived in Plymouth County.
3. Appellant and Wife filed their 2019 Massachusetts taxes as married filing jointly with no dependents. The couple married in September 2019.
4. Appellant reported on the Massachusetts tax return and confirmed at the hearing that he and Wife had adjusted gross income in 2019 of \$154,289. See Exhibit 2.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that the couple filed with their 2019 state income taxes that he had health insurance meeting minimum creditable (MCC) standards in October through December 2019, but did not have any insurance for the first nine months of the year. Wife had health insurance meeting MCC standards throughout the entire year.
6. Appellant was out of work for the first three months of 2019. After that, he worked at a job that did not offer him health insurance.
7. During 2019, Appellant's income from employment was \$36,505 and from unemployment was \$11,255. See Exhibit 3 (W-2 and 1099G forms for Appellant).
8. Appellant had child support obligations of \$600 a month. Exhibit 3 (Probate Court order). He also was on a payment plan with the Internal Revenue Service to pay off a prior year's tax liability; this payment was \$110 a month. Exhibit 3 (IRS payment documents). Further, he had debt payments of \$230 a month. Exhibit 3 (Convergent invoice).
9. At some point, Appellant applied for health insurance for 2019 through the Health Connector. However, based on the projected income that he provided, he did not qualify for government subsidies. He determined that, given his circumstances, he could not afford unsubsidized insurance.
10. After Appellant married Wife in September 2019, she was able to have him covered under the health insurance provided by her employer. Appellant has been insured since then and was insured at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he reported on his Schedule HC that he was without insurance for nine months in 2019. Because he is entitled to a three-month gap without penalty, he has been assessed a penalty for only six months. As stated above, Wife had health insurance throughout the entire year of 2019, and so she has not been assessed a penalty.

In order to determine whether Appellant should be penalized, I must first determine whether he had affordable insurance available to him during the period in 2019 when he was uninsured. In order to do

this, I must consider whether Appellant could have obtained affordable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During 2019, Appellant was either unemployed or working in a position that did not offer health insurance as a benefit. Thus, he did not have access to employer-sponsored insurance until he got married in September and was able to obtain coverage under his wife's employer-sponsored insurance policy.

Further, Appellant would not have been eligible for government-subsidized insurance during 2019. His annual income in 2019 was \$154,289. That amount is above \$49,380, which is 300 percent of the federal poverty limit for a household like Appellant's with two persons. (I obtain the figure of \$49,380 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.)

However, during the period that Appellant was uninsured, he was unmarried and thus only his own income would have been considered during that period. However, even considering Appellant's income alone, he would not have been eligible for government-subsidized insurance. His 2019 income from unemployment compensation and earnings was approximately \$47,700. See Exhibit 2 (W-2 and 1099-G). That income was higher than 300 percent of the federal poverty level for an individual, which in 2019 was \$36,420. This is consistent with Appellant's testimony that he applied for subsidized insurance for 2019 but was informed that his income was too high to qualify for subsidies. Accordingly, I determine that Appellant did not have access to government-subsidized insurance in 2019.,

To determine whether Appellant could have afforded unsubsidized insurance purchased on the non-group market, I must use state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. If I use the joint income of \$154,289 that Appellant and his wife reported on their 2019 taxes, I would determine that he could have afforded health insurance. Under those standards, persons in a household of two who make \$154,289 a year are deemed able to afford 8 percent of their income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellant's case, that amounts to \$12,343 or \$1,028 a month. During 2019, a person like Appellant who was 29 and lived in Plymouth County could have obtained health insurance for a premium of \$257 a month. (I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC). Thus, using Appellant's joint income, this amount would clearly have been affordable.

However, I determine that it would be inequitable to do the affordability analysis using the joint income reported for Appellant and Wife in 2019, because Appellant was not married during the period that he was uninsured. Rather, I should do the analysis using the income figure for Appellant alone during the nine months before his marriage. Appellant's income during 2019 was approximately \$47,700. Based on that income, an individual is deemed able to afford 7.6 percent of income for health insurance. (See Table 3 from instructions for the 2019 Schedule HC.) In this case, that would amount to \$3,625 annually or \$302 a month. This is slightly greater than the \$257 Appellant would have had to pay for health

insurance. Thus, even considering Appellant's income alone, health insurance was deemed affordable for him.

Because I have concluded that Appellant could have obtained affordable health insurance in 2019, but didn't, I must determine whether he has stated grounds to waive the individual mandate penalty. To meet that standard, Appellant must establish that his circumstances were such that purchasing health insurance would have been a "hardship." 956 CMR 6.08(1). I determine based on all the circumstances that Appellant has met that standard.

As noted above, when considering Appellant's income alone, health insurance was only marginally affordable. Further, Appellant had the obligation of paying \$600 a month in child support. See Exhibit 3 (Probate Court order). Additionally, Appellant was obliged to pay \$110 a month to the IRS for a previous year's tax liability. These legal obligations alone would have more than used up the amount of money that Appellant could have had available for health insurance during the period that he was uninsured. Thus, I conclude that the purchase of health insurance would have caused a financial hardship.

Because I conclude that the purchase of health insurance would have created a hardship for Appellant, I determine that the individual mandate penalty assessed against him should be waived in its entirety. Accordingly, I am allowing this appeal.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19806

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: December 6, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on June 24, 2020 with letter i support attached

Exhibit 1a: Print-out showing Appellant's health insurance coverage all of 2019

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated October 8, 2020 for November 3, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 35 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$54,787 in 2019 (Testimony of Appellant, Exhibit 2).
4. In 2018, after being laid off, Appellant got a job with a developer. Appellant continued to work at the same job in 2019. In addition, Appellant obtained a real estate license. Appellant earned \$18 an hour and worked between 15 and 40 hours a week for the developer. The appellant earned between \$36,000 and \$39,000 at this job. During 2019, the appellant completed two real estate transactions and made \$12,000. Appellant also earned some amount after obtaining a few rentals for customers (Testimony of Appellant).
5. Appellant was not offered health insurance through the job with the developer. Appellant's father helped the appellant find health insurance. Appellant obtained coverage for which the appellant paid a premium of \$189 a month. Appellant was told that the plan met the standards for the Affordable Care Act. She did not realize that it

did not meet Massachusetts standards. Appellant only found out that the coverage did not meet the minimum creditable coverage standards when she did her taxes for 2019 (Testimony of the Appellant).

6. Appellant obtained coverage through the Connector as of January 1, 2020 (Testimony of the Appellant).

7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$54,787 could afford to pay \$365 per month for health insurance. According to Table 4, Appellant, 35 years old and living in Middlesex County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

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

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices for a basic utility during 2019 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$1,100; heat and electricity-\$170 on average; telephone and internet-\$175; food-\$600; car payments-\$250; car insurance-\$95; gas-\$130; clothing-\$290; uncovered medical expenses-\$50; old credit card debt-\$150. In addition, Appellant had business expenses relating to her real estate work of \$1,000 and travel expenses because of a death in the family of \$700 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant obtained health insurance as of January 1, 2020. Since Appellant is entitled to a three-month grace period prior to obtaining coverage, Appellant's penalty for October through December is waived. See Exhibit 2 and the testimony of the appellant which I find to be credible.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$54,787 could afford to pay \$365 per month for health insurance. According to Table 4, Appellant, 35 years old and living in Middlesex County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

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

Appellant had no access to health insurance through employment. Appellant was not offered work through job. See 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 him to experience a serious deprivation of basic necessities or some other financial hardship as defined in 956 CMR 6.08 (a), (b), (d), and or (e), and 6.08(3).

Appellant had the following monthly expenses for basic necessities in 2019: rent-\$1,100; heat and electricity-\$170 on average; telephone and internet-\$175; food-\$600; car payments-\$250; car insurance-\$95; gas-\$130; clothing-\$290; uncovered medical expenses-\$50; old credit card debt-\$150. In addition, Appellant had business expenses equaling \$1,000 relating to her real estate work and travel expenses because of deaths in the family equaling \$700. See the testimony of Appellant which I find to be credible.

Appellant had inconsistent monthly earnings. Appellant, after being laid off from a job in 2018, obtained work with varying hours. Appellant worked between 15 and 40 hours a week. She also obtained a real estate license during the year and had two sales go through. Appellant's monthly income varied throughout the year. Expenses, however, were consistent and amounted to approximately \$3,000 a month for basic necessities. In addition, Appellant had expenses related to setting up her real estate business and had travel expenses because of deaths in her family. Finally, Appellant thought she had health insurance which her father had helped her obtain that met necessary standards. She paid \$189 a month all year for the coverage. It was only in early 2020 that she realized the coverage had not met the Commonwealth's standards. See the testimony of the appellant which I find to be credible.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her during 2019. I determine that the cost of purchasing coverage would have caused Appellant to experience a serious deprivation of basic necessities depending upon her earnings for each

month. See 956 CMR 6.08(1)(e). See also 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing. I note that Appellant wanted to have insurance and with the help of her father sought coverage and paid for what turned out to be an insufficient plan. As of January 1 2020, Appellant obtained coverage through the Connector.

Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19807

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: November 30, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on June 24, 2020 with letter and list of expenses attached

Exhibit 1a: Appellant's 2019 Federal Tax Return

Exhibit 1b: Appellant's car insurance billing history and personal loan payment history

Exhibit 1c: Appellant's car loan bill, June, 2019

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated October 8, 2020 for November 3, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 27 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Dukes County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$27,813 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all of 2019 at a hotel. Appellant earned \$17 an hour and worked 40 hours during the summer and 30 to 35 hours a week during the rest of the year (Testimony of Appellant).
5. Appellant was not offered health insurance through employment (Testimony of Appellant).
6. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).

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

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$27,813 could afford to pay \$97 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Dukes County, could have purchased insurance for \$342 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent in 2019 (Testimony of Appellant).

12. Appellant's electricity was shut off once in 2019. Though Appellant did not receive a shut-off notice, Appellant did fall behind in paying her heating bills (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$500; heat and electricity-\$250; telephone-\$80; food-\$350; clothing-\$10; car insurance-\$133; gas-\$80; car payment-\$389; personal loan payment-174. Appellant also had \$500 of other transportation expenses (getting on and off the Vineyard). Appellant's car insurance was canceled in April because Appellant had insufficient funds in her checking account. The insurance was reinstated in May. Appellant paid \$1,681 in Federal taxes (Testimony of Appellant, Exhibit 1a).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused Appellant a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$2,7813 could afford to pay \$97 per month for health insurance. According to Table 4, Appellant, 27 years old and living in Dukes County, could have purchased insurance for \$342 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment. Appellant worked in a hotel and was not offered any benefits. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. Appellant's Federal Adjusted Income was \$27,813, less than the income limit for one person (\$36,420). The appellant also had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.00.

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

Appellant had the following expenses for basic necessities in 2019: rent-\$500; heat and electricity-\$250; telephone-\$80; food-\$350; clothing-\$10;. car insurance-\$133; gas-\$80; car payment-\$389; personal loan payment-174. Appellant also had \$500 of other transportation expenses (getting on and off the Vineyard). Appellant's car insurance was canceled in April because Appellant had insufficient funds in her checking account. The insurance was reinstated in May. See the testimony of Appellant, which I find to be credible, and Exhibits 1, 1a-1c.

Appellant's monthly gross income came to about \$2,300. Her monthly expenses for basic necessities were approximately \$2,100. If we include the Federal taxes Appellant paid, her expenses came to \$2,281. Appellant was left with no disposable income after paying these expenses. Appellant also had her car insurance canceled because she had no funds in her checking account to cover her payment. Appellant's electricity was shut off once during the year. Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her during 2019. The cost of purchasing health insurance would have caused the appellant a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e) and 6.08 (3) which allows the consideration of financial issues raised by the appellant on appeal. See also 956 6.08(1)(b) which provides that a shut off of a basic utility, in this case electricity, constitutes a financial hardship.

Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19809

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: November 25, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on June 13, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated October 8, 2020 for November 3, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 25 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$21,563 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed in January and February at one job, and from September through December, 2019 at another. At the first job, he earned \$3,750 a month and at the second job, he earned about \$3,500 a month (Testimony of Appellant).
5. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standard through both job, in January, February, and September through December. Appellant still had coverage as of the date of this hearing (Testimony of Appellant).
6. Appellant was unemployed from March through August, 2019. Appellant did not receive any unemployment compensation during the months he was unemployed (Testimony of Appellant).

7. Appellant has been assessed a penalty for three months, June through August, 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).

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

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$21,563 could afford to pay \$52 per month for health insurance. According to Table 4, Appellant, 25 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

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

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent in 2019 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices in 2019 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$775; heat and electricity-\$250; telephone-\$0.00; food-\$610; clothing-\$0.00; car insurance-\$180; gas-\$175 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The appellant has been assessed a penalty for three months, June through August, 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him a serious deprivation of basic necessities. Exhibits 1, 2. Appellant had coverage in January and February. Since the appellant is entitled to a three-month grace period after losing coverage, his penalty for March through May is waived. See 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 2019, the appellant with no dependents claimed with an adjusted gross income of \$21,563 could afford to pay \$52 per month for health insurance. According to Table 4, Appellant, 25 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment from March through August. Appellant was unemployed during this period. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. Appellant's Federal Adjusted Income was \$21,563, less than the income limit for one person (\$36,420). The appellant also had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.00.

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

Appellant had the following expenses for basic necessities in 2019: rent-\$775; heat and electricity-\$250; telephone-\$0.00; food-\$610; clothing-\$0.00;. car insurance-\$180; gas-\$175. See the testimony of Appellant, which I find to be credible. Appellant's monthly gross income came to about \$1,800. His monthly expenses for basic necessities were approximately \$1,900. Appellant ran a deficit each month. In fact, Appellant's financial situation was worse than these numbers make it appear. During the months for which Appellant has been assessed a penalty, Appellant had no income. He no money coming in with which to pay his bills.

Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him during 2019. The cost of purchasing health insurance would have caused the appellant a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). I also note Appellant had health insurance coverage as of the date of this hearing.

Appellant's penalty is waived in full.

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

PENALTY ASSESSED

Number of Months Appealed: ___3___ Number of Months Assessed: ___0___

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19810

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 3, 2020

Decision Date: December 2, 2020

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 3, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on June 25, 2020 with letter attached

Exhibit 1a: Appellant's 2019 Federal and Massachusetts Tax Returns

Exhibit 1b: Appellant's electric billing history

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated October 8, 2020 for November 3, 2020 hearing

Exhibit 4: Authorizations for Visitation by Minor Children, August, 2019

Exhibit 4a: Appellant's nephew's birth certificate

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 33 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$29,656 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all of 2019 at a restaurant. Appellant earned \$3.00 an hour and tips. Appellant's income varied week to week (Testimony of Appellant).
5. Appellant was not offered health insurance through employment. The appellant was uninsured all year, despite trying to obtain coverage through the Connector. There was an issue with her identification which she was unable to resolve despite sending in paperwork. Appellant finally obtained health insurance through the Connector in May, 2020 (Testimony of Appellant).

6. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused Appellant a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$29,656 could afford to pay \$103 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Plymouth County, could have purchased insurance for \$279 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
11. Appellant did not fall more than thirty days behind in rent in 2019 (Testimony of Appellant).
12. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).
13. Appellant's sister was incarcerated in 2019. While her sister's children did not move in with the appellant, Appellant spent time with them everyday. Appellant took the children to visit their mother. During the year, Appellant spent about \$800 providing care for the children (Testimony of Appellant; Exhibits 4 and 4a).
14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$1,600 until November when Appellant moved and rent decreased to \$600; heat and electricity-\$230; telephone-\$55; food-\$450 until Appellant moved in November when food costs increased to \$1,000; clothing-\$90; car insurance-\$75; gas-\$175. The appellant also spent \$460 on dental care during 2019 (Testimony of Appellant, Exhibit 1b).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused Appellant a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$29,656 could afford to pay \$103 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Plymouth County, could have purchased insurance for \$279 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment. Appellant worked in a restaurant and was not offered any benefits. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. Appellant's Federal Adjusted Income was \$29,656, less than the income limit for one person (\$36,420). The appellant also had no access to employer-sponsored insurance. See 956 CMR 12.00 et. seq.

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

Appellant had the following expenses for basic necessities in 2019: rent-\$1,600 until November when Appellant moved and rent decreased to \$600; heat and electricity-\$230; telephone-\$55; food-\$450 until Appellant moved in November when food costs increased to \$1,000; clothing-\$90; car insurance-\$75; gas-\$175. The appellant also spent \$460 on dental care. See the testimony of Appellant, which I find to be credible, and Exhibit 1b.

Appellant's monthly gross income came to about \$2,475, though in fact, it varied from month to month. Her monthly expenses for basic necessities were approximately \$2,675 on average, taking into account that while Appellant's rent decreased in November, her expenditures for food increase. Appellant also had expenses for dental care and for the care of her sister's children whom she cared for while her sister was incarcerated.

Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her during 2019. The cost of purchasing health insurance would have caused the appellant a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e) and 6.08 (3) which allows the consideration of financial issues raised by the appellant on appeal. Appellant's expenses for basic necessities were greater than Appellant's monthly income before taxes. Each month, she ran a deficit.

Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit