

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 19-406

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

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

Hearing Date: August 12, 2020

Decision Date: September 24, 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. Appellant's brother also appeared at the hearing as Appellant's representative. An interpreter was present, as Appellant speaks solely Haitian-Creole. The procedures to be followed during the hearing were reviewed with Appellant, her representative and the interpreter, who were all sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant and her representative's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: HC Appeals Unit Notice of Hearing dated July 14, 2020.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal dated March 19, 2020.
- Exhibit 4: Appellant's letter in support of this Appeal dated August 22, 2020.
- Exhibit 5: Copies of health insurance cards in Appellant's name.
- Exhibit 6: Correspondence from MassHealth to Appellant dated March 13, 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 59 years old and resided in Suffolk 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 \$19,001. (Exhibit 2).

3. During 2019, despite repeatedly requesting full-time hours, Appellant worked part-time for her employer, who offered employer-sponsored health insurance. (Exhibit 4; Appellant Testimony).
4. In 2019, Appellant and her representative contacted the Health Connector and MassHealth to try to obtain health insurance coverage for Appellant. (Exhibits 4-6; Appellant and her Representative's Testimony.)
5. Appellant received health insurance cards from MassHealth and the HealthNet Plan. (Exhibit 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.

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 no health insurance for the entirety of 2019, the three-month grace period is inapplicable and she is appealing a twelve-month tax penalty for 2019. (Exhibit 2). In support of her appeal, Appellant claims that because her employer only provides her with part-time hours, in 2019 she was not able to afford to purchase the employer-sponsored health insurance offered to her, and that she applied for both MassHealth and Connector Care. (Exhibits 3-6; Appellant Testimony).

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

Based on the Affordability Schedule, Appellant filing the Federal tax return as single, with no dependents, with an annual adjusted gross income of \$19,001 could afford to pay \$45 monthly for a single health insurance plan. *See* 2019 Schedule HC Instructions and Worksheets, *supra*, at Table 3.

Based on Schedule HC for 2019 Table 4, it would have cost Appellant, age 59 and living in Suffolk County, \$418 per month to purchase a single plan on the private insurance market. I conclude that purchasing individual coverage on the private market in 2019 was not affordable for Appellant.

According to Appellant and her representative, Appellant applied for both MassHealth and Connector Care; however, neither the testimony nor the submitted documents make clear the results of Appellant's applications and whether Appellant had health insurance for all or a portion of 2019. Appellant submitted copies of correspondence and insurance cards in her name; however neither reflect Appellant's definitive health insurance coverage for 2019. (Exhibits 4-6). Irrespective of whether she actually had Connector Care coverage in 2019, I find that Appellants' 2019 Adjusted Gross Income of \$19,001, well under 300% of the Federal Poverty Level, 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, at Table 2.

Appellant and her representative credibly testified that despite repeatedly asking her employer, for whom Appellant has worked for a number of years, for full-time hours, she was provided solely part-time hours throughout 2019. (Exhibit 4; Appellant and her Representative's Testimony). Appellant testified that while her employer offered both full and part-time employees health insurance, she was not able to afford to purchase this coverage based on her limited number of hours, and that while she did not know the monthly cost for coverage, even full-time employees complained about the cost of the employer-sponsored health insurance at her workplace. (Exhibit 4; Appellant and her Representative's Testimony). Based on Appellant demonstrating that she actively sought to obtain health insurance in 2019, I conclude that had she been able to afford it, Appellant would have signed up for the employer-sponsored health insurance offered to her, and that this coverage was not affordable for her.

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

Appellant and her representative testified that in 2019, Appellant had the following monthly expenses for basic necessities: rent - \$600; phone - \$40; food - \$400. I infer from Appellant's reported Adjusted Gross Income that her approximate monthly take home pay in 2019 was \$1,100, while her monthly expenses for basic necessities totaled \$1,040, leaving her with just \$60 per month. (Exhibit 2; Appellant and her Representative's Testimony).

Based on the record before me, I conclude that Appellant did not have access to affordable health insurance in 2019. I further find that based on her experiencing a financial hardship within the meaning of the statute, Appellant would not have been able to purchase otherwise affordable health insurance in 2019, even if it had been available to her. See 956 C.M.R. 6.08.

Accordingly, Appellant's appeal is **APPROVED** 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 PA 20-228

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

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

Hearing Date: June 17, 2021

Decision Date: November 29, 2021

AUTHORITY

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A 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 June 17, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC dated
- Exhibit 2: Statement of Grounds for the Appeal.
- Exhibit 3: Letter from Appellant in Support of Appeal.
- Exhibit 4: HC Appeals Unit Notice of Hearing dated May 11, 2021.

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 22 years old and resided in Middlesex County in 2020. (Exhibit 1).
2. Appellants filed his 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$51,373. (Exhibit 1).
3. In 2020 Appellant worked for an employer offering employer sponsored health insurance (“ESI”). (Appellant Testimony).

4. Appellant had no health insurance for the entirety of 2020. (Exhibit 1; Appellant testimony).
5. Appellant submitted a letter in support of his appeal, claiming that he did not have health insurance in 2020 because he did not know how to obtain health insurance, or that it was too expensive. (Exhibit 3; Appellant Testimony).
6. Appellant had no health insurance in 2019, and paid an individual mandate penalty for Tax Year 2019 for this failure. (Exhibit 3; Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2020, the three-month grace period is inapplicable and Appellant is appealing a twelve-month tax penalty for 2020. (Exhibit 1).

In support of his appeal, Appellant submitted a statement of grounds and a letter, claiming that he did not have health insurance in 2020 because he did not know how to obtain health insurance, or that it was too expensive. (Exhibit 3; Appellant testimony).

A determination must be made whether the twelve-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellant’s 2020 Adjusted Gross Income of

\$51,373 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 22 and living in Middlesex County, \$241 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 \$51,373 could afford to pay \$343 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant's reasons for failing to obtain health insurance for 2020 are not supported by the record or his testimony. Appellant testified during the hearing that he had access to ESI in 2020, and did not enroll during his employer's open enrollment period because he thought he had MassHealth. (Appellant Testimony). In his letter in support of his appeal, Appellant states that he had MassHealth under his parent up until 2018, which indicates knowledge that he was not covered under MassHealth in 2020. (Exhibit 3). Appellant claims that he did not obtain health insurance in 2020 because did not know how to do so, however he testified he went onto the Health Connector web site in 2020 and filled out an application for health insurance, which indicates knowledge that he required health insurance, as well as the steps needed to obtain it. (Appellant Testimony). Appellant testified that he was assessed a penalty for Tax Year 2019 for his failure to have health insurance, which indicates knowledge that he did not have MassHealth or any other health insurance coverage in 2020. (Exhibit 3; Appellant Testimony). I do not credit Appellant's testimony relating to his knowledge and efforts at obtaining health insurance for 2020, and I find that Appellant had access to ESI as well as affordable private insurance in 2020.

Because Appellant had access to affordable insurance in 2020, it must be determined whether he experienced a financial hardship such that he could not purchase otherwise affordable health insurance. 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 fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. (See 956 C.M.R. 6.08 and 956 C.M.R. 12.11). Appellant did not testify to experiencing any of these circumstances in 2020.

Appellant testified to monthly expenses for necessities totaling \$1,690, including rent: \$300; Phone: \$80; car payment: \$260; car insurance: \$250; food: \$800. (Appellant Testimony). Appellant's monthly gross income of \$4,281 is well above the cost of his essential expenses. (Exhibit 1; Appellant Testimony). I conclude that Appellant has not demonstrated that the cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities, and he did not

experience a financial hardship in 2020 as defined by the regulation. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Accordingly, Appellant's twelve-month penalty is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with 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 20-230

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

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

Hearing Date: June 17, 2021

Decision Date: November 29, 2021

AUTHORITY

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A 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 June 17, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC dated April 21, 2021.
- Exhibit 2: Statement of Grounds for the Appeal dated March 10, 2021.
- Exhibit 3: Expense and income document from Appellant in support of Appeal.
- Exhibit 4: Appellant's 2020 W2.
- Exhibit 5: Health Connector Appeals Unit Notice of Hearing dated May 11, 2021.
- Exhibit 6: Health Connector Open Record Request dated June 17, 2021.
- Exhibit 7: Appellant's employer's Open Record Request response received June 29, 2021.

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 25 years old and resided in Bristol County in 2020. (Exhibit 1).
2. Appellant filed his 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$44,452. (Exhibit 1).

3. In 2020 Appellant worked for an employer that did not offer employer sponsored health insurance (“ESI”). (Exhibit).
4. Appellant had no health insurance for the entirety of 2020. (Exhibit 1; Appellant testimony).
5. Appellant submitted a Statement of Grounds for Appeal claiming that the expense of purchasing health insurance in 2020 would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2020, the three-month grace period is inapplicable and Appellant is appealing a twelve-month tax penalty for 2020. (Exhibit 1).

In support of his appeal, Appellant submitted a statement of grounds, claiming that expense of purchasing health insurance in 2020 would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

A determination must be made whether the twelve-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2020 Adjusted Gross Income of \$44,452 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Appellant testified that he does not believe his 2020 employer offered ESI and the record was kept open for Appellant's 2020 employer to submit a Health Connector ESI Form; the Connector received employer's form showing that this employer did not offer ESI to Appellant in 2020. (Exhibits 6 and 7; Appellant Testimony).

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 25 and living in Bristol County, \$269 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 \$44,452 could afford to pay \$282 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, because the cost of private health insurance was less than the amount Appellant could afford, it is presumed that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

While a strict reading of the Tables indicate private insurance was affordable for Appellant, the difference between the amount Appellant could afford for private insurance and the cost is a mere \$13 dollars. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4. Appellant credibly testified at hearing that both his roommate and his girlfriend, with whom he lives, lost their jobs in 2020, forcing Appellant to pay their share of rent costs as well as his own, plus additional expenses. (Appellant Testimony). I conclude that the additional expenses incurred by Appellant in 2020 served to push affordable - according to the Tables - private health insurance into the unaffordable realm, given that the difference between cost and affordability in 2020 was a mere \$13 dollars. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4. I conclude that affordable private insurance was not available to Appellant in 2020.

Based on the Tables, the hearing record and the testimony provided, I find that in 2020 Appellant did not have access to affordable private health insurance, he was not eligible for ConnectorCare, and he did not have access to ESI. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4. (Exhibits 6 and 7; Appellant Testimony).

Individuals who do not have access to affordable coverage are not subject to the individual mandate penalty. Accordingly, Appellant's appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against him 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

Appellant testified that in 2020 he was paying others' portion of rent and other expenses due to their job loss. While commendable, Appellant is advised that health insurance is mandated in Massachusetts, and should be a priority. Appellant is advised not to rely on a similar grant of leniency should he appeal the assessment of a penalty in any future tax year.

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 20-231

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

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

Hearing Date: June 17, 2021

Decision Date: November 29, 2021

AUTHORITY

This hearing was conducted pursuant to section 1411(f) of the Patient Protection and Affordable Care Act (2010), 45 C.F.R 155, M.G.L. c. 30A 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 June 17, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant’s testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC dated April 21, 2021.
- Exhibit 2: Statement of Grounds for the Appeal dated March 14, 2021.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated May 11, 2021.

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 25 years old and resided in Bristol County in 2020. (Exhibit 1).
2. Appellant filed her 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$34,554. (Exhibit 1).
3. In 2020 Appellant worked for an employer that did not offer Appellant employer sponsored health insurance (“ESI”). (Appellant Testimony).
4. Appellant had no health insurance for the entirety of 2020. (Exhibit 1; Appellant testimony).

5. Appellant submitted a Statement of Grounds for Appeal claiming that the expense of purchasing health insurance in 2020 would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector’s Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. Because Appellant had no health insurance in 2020, the three-month grace period is inapplicable and Appellant is appealing a twelve-month tax penalty for 2020. (Exhibit 1).

In support of her appeal, Appellant submitted a statement of grounds, claiming that expense of purchasing health insurance in 2020 would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 2).

A determination must be made whether the twelve-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

Appellant testified that despite her full-time status, her 2020 employer had a 2-year probation period before offering benefits including ESI, and that she had not reached that anniversary before being laid off in March of 2020. (Appellant Testimony). Appellant returned to work in September of 2020 with part-time hours, remaining ineligible for ESI throughout 2020. (Appellant Testimony).

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 25 and living in Bristol County, \$269 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 \$34,554 could afford to pay \$144 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on these Tables, because the cost of private health insurance was greater than the amount Appellant could afford, I find that affordable private insurance was not available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

According to Schedule HC for 2019 Table 2, I find that Appellant's 2020 Adjusted Gross Income of \$34,554 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 2020 was \$37,470 for an individual). See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Because Appellant had access to affordable insurance in 2020 through the Connector's ConnectorCare program, it must be determined whether she experienced a financial hardship such that she could not purchase otherwise affordable health insurance. 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 fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Appellant's 2020 adjusted gross income of \$34,554 equates to gross earnings of \$2,879 per month. (Exhibit 1). Appellant testified to monthly expenses for necessities of \$2810, including: rent: \$1,000; utilities: \$500; cell/internet: \$300; car payments: \$250; car insurance: \$260; food: \$500. (Appellant Testimony). Appellant's gross monthly earnings are only slightly more than her monthly expenses. (Exhibit 2; Appellant Testimony). I find that Appellant has demonstrated that the cost of purchasing health insurance would have caused her to experience a serious deprivation of basic necessities, and she would have experienced a financial hardship as defined by the regulation had she incurred the additional expense of purchasing health insurance in 2020. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Accordingly, Appellants' appeal is **GRANTED** and the twelve-month 2020 Tax Penalty assessed against Appellant 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit
Final Appeal Decision PA 20-573

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

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

Hearing Date: October 1, 2021

Decision Date: November 1, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on October 1, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated April 12, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated July 15, 2021.
- Exhibit 3: HC Appeals Unit Notice of Hearing dated August 31, 2021

FINDINGS OF FACT

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

1. Appellant turned 28 years old and resided in Norfolk County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single with no dependents claimed, reporting an Adjusted Gross Income of \$43,356. (Exhibit 3).
3. Appellant submitted a Statement of Grounds for Appeal, dated April 12, 2020 which did not indicate a reason for his appeal. (Exhibit 1).
4. In 2020, Appellant worked for an employer offering employer sponsored health insurance ("ESI"). (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 had no health insurance in 2020, the three-month grace period is inapplicable, and Appellant appeals a twelve-month tax penalty for 2020. (Exhibit 2).

In support of his appeal, Appellant submitted a Statement of Grounds, failing to indicate his reason for appealing the individual mandate penalty assessed against him for Tax Year 2020. (Exhibit 1). During hearing, Appellant offered only that he could not afford health insurance in 2020, without articulating specific reasons why he could not afford to purchase health insurance. (Appellant Testimony).

A determination must be made whether the twelve-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellant’s 2020 Adjusted Gross Income of \$43,356 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). Because Appellant’s 2020 AGI of \$43,356 was greater than 300% of the FPL, he is ineligible for subsidized health insurance through the Connector. *See* 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, age 28 and living in Norfolk County, \$269 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 \$43,356 could afford to pay \$269 monthly for an individual plan. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the amount Appellant could afford for health insurance matches the cost of purchasing health insurance, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that his 2020 employer offered ESI, and even though he was unable to provide the specific cost of his portion of the premium, Appellant claimed he could not afford to purchase this ESI. (Appellant Testimony). I find that Appellant had access to ESI in 2020.

Because Appellant had access to both affordable private health insurance as well as ESI, it must be determined whether he experienced a financial hardship in 2020 such that he could not purchase otherwise affordable health insurance. 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 fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11. Appellant did not testify to experiencing any of these circumstances in 2020.

Appellant testified to monthly expenses for necessities totaling \$1,500, including rent: \$500; utilities: \$200; car payment: \$400; food: \$400. (Appellant Testimony). Appellant's monthly gross income is well above the cost of his essential expenses. (Exhibit 2; Appellant Testimony). Appellant was not facing eviction, did not receive utility shutoff notices and did not occur significant and unexpected expenses due to a family emergency or natural disaster. (Exhibit 2). I conclude that Appellant has not demonstrated that the cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities, and he did not experience a financial hardship in 2020 as defined by the regulation. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Accordingly, Appellant's twelve-month penalty is **UPHELD**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with 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 20-685

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

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

Hearing Date: November 2, 2021

Decision Date: November 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 2, 2021. The procedures to be followed during the hearing were reviewed with Appellant, who was sworn in. Exhibits were marked and admitted into evidence without objection. The hearing record consists of the Appellant's testimony, and the following documents, which were admitted into evidence:

- Exhibit 1: Statement of Grounds for the Appeal dated April 7, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated August 3, 2021.
- Exhibit 3: Letter from Appellant in support of appeal dated April 8, 2021.
- Exhibit 4: Expense grid created by Appellant.
- Exhibit 4: HC Appeals Unit Notice of Hearing dated October 14, 2021

FINDINGS OF FACT

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

1. Appellant turned 45 years old and resided in Middlesex County in 2020. (Exhibit 2).
2. Appellant filed his 2020 Federal Income Tax return as single with zero dependents claimed, reporting an Adjusted Gross Income of \$59,898. (Exhibit 2).
3. Appellant submitted a Statement of Grounds for Appeal, dated April 7, 2021, claiming that the expense of purchasing health insurance in 2020 would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 1).

4. In 2020, Appellant worked for two different employers, both offering employer sponsored health insurance (“ESI”). (Appellant testimony).
5. Appellant had ESI in January and February of 2020. (Exhibit 2; Appellant Testimony).
6. Appellant was laid off due to the pandemic from March through November of 2020. (Exhibit 3; Appellant Testimony).
7. In November, Appellant began working for a different employer offering ESI. (Appellant Testimony).
8. Appellant enrolled in an individual health insurance plan through the Connector, with coverage starting January of 2021. (Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In support of his appeal, Appellant submitted a Statement of Grounds, claiming that expense of purchasing health insurance in 2020 would have caused Appellant a serious deprivation of food, shelter, clothing or other necessities. (Exhibit 1).

A determination must be made whether the seven-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such

insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellant's 2020 AGI of \$59,898 made him ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$37,470 for an individual). Because Appellant's 2020 AGI of \$59,898 was greater than 300% of the FPL, he was ineligible for subsidized health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, living in Middlesex County, \$316 per month at age 44 and \$361 at age 45 to purchase an individual plan on the private insurance market. Based on the Affordability Schedule, Appellant, filing the Federal tax return as single with zero dependents, with an AGI of \$59,898 could afford to pay \$399 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that in 2020 he was enrolled in ESI in January and February, and lost this coverage when he was laid off due to the pandemic from March through November. (Exhibit 3; Appellant Testimony). Appellant testified that he received unemployment benefits in 2020. (Appellant Testimony). Appellant testified that in November of 2020 he began working for a different employer offering ESI at a cost of \$58 per week, which was comparable to the cost of his premium for the ESI with his previous employer. (Appellant Testimony). At some point Appellant enrolled in an insurance plan through the Health Connector, which Appellant is currently covered through the Connector. (Appellant Testimony). Appellant offered no credible reason for not enrolling in an insurance plan with the Connector upon losing his ESI in March when he was laid off, an event which would have made him eligible for a special enrollment period.

Based on the Tables and the testimony provided, I find that in 2020 Appellant had access to affordable private insurance.

Because Appellant had access to affordable private health insurance, it must be determined whether he experienced a financial hardship in 2020 such that he could not purchase otherwise affordable health insurance. 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 fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11. Appellant did not testify to experiencing any of these circumstances in 2020.

Appellant testified to monthly expenses for necessities totaling \$2,635, including rent: \$1,700; Utilities/phone/internet: \$250; electric: \$73; car payment: \$250; car insurance: \$162; food: \$200. (Appellant Testimony). Appellant created and submitted an income and expense grid showing monthly income in 2020 of \$3,292. (Exhibit 4). Appellant testified to receiving \$820 per week in unemployment benefits. (Appellant Testimony). Appellant's grid shows monthly income of \$3,292 which equates to \$820 per week; however Appellant testified that he was working – and presumably not collecting unemployment benefits – for four months in 2020 (January, February, November and December), and his Schedule HC shows an Adjusted Gross Income ("AGI") of \$59,898, which necessitates earnings greater than \$820 per week.

Hardship analyses calculated in connection with individual mandate penalties involve deducting essential expenses from gross monthly earnings. Appellant's 2020 gross monthly income, taken from his Schedule HC, is \$4,991, well above the cost of his essential expenses. (Exhibit 2). Appellant was not facing eviction, did not receive utility shutoff notices and did not incur significant and unexpected expenses due to a family emergency or natural disaster. (Exhibit 2). I conclude that Appellant has not demonstrated that the cost of purchasing health insurance would have caused him to experience a serious deprivation of basic necessities, and he did not experience a financial hardship in 2020 as defined by the regulation. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11.

Accordingly, Appellant's seven-month penalty is **UPHELD**.

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with 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: PA20-741

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 3, 2021

Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant Wife, appeared at the hearing, which was held by telephone on November 3, 2021. The Appellant Spouse was not present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant Wife 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 2020 Signed by Appellant on 4/25/2021. | (2 PP). |
| Exhibit 2(a): | 2019 and 2020 1099-HC | (2 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 10/15/2021 | (2 PP). |

The record was left open for the Appellant Wife to submit proof of coverage of her Father's Employer Sponsored Insurance until November 26, 2021. On November 24, 2021, the Appellant Wife submitted the following:

- Exhibit 4: Proof of coverage of Insurance.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married joint with a family size of 2, were ages 23 in 2020, lived in Worcester County. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$63,111. (Exhibit 1).

3. Appellant's Wife testified she was enrolled on her Father's Employer Plan from January through December 2020. (Appellant's Testimony, Exhibits 2(a), 4).
4. Appellant Wife testified her Spouse did not have coverage as he changed employers at the beginning of the year and moved to a new employer when the pandemic started making it difficult to obtain insurance (Appellant's Testimony).
5. The Appellant submitted a 2019 and 2020 1099-HC, and an insurance membership card, which referenced she had coverage in 2020. (Exhibits 2(a), 4, Testimony).
6. The Appellant Wife was furloughed during Covid and collected Unemployment. (Appellant's Testimony).
7. The Appellants were each paid approximately \$17.50 and worked 40 hours a week per hour when they were employed. (Appellant's Testimony).
8. The Appellants take-home net pay was approximately \$2,600 per month. (Appellant's Testimony).
9. The Appellants had the following average monthly living expenses in 2020: Rent: \$1,100, Utilities: \$340, Cell Phone \$70, Food: \$400, Car Payment/ Insurance: \$385, Internet/Cable: \$45, Credit Card: \$100, Student Loans: \$1,200, totaling: \$3,640. (Appellant's Testimony).
10. The Appellant Wife was laid off from retail employment in 2021 and had to move back with family in 2021.
11. The Appellants have each been assessed a tax penalty for twelve (12) months in 2020. The Appellants have appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellant could have afforded \$399.70 per month for health insurance in 2020. According to Table 4 Appellant Spouse could have purchased insurance for \$241.00 per month.
13. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,730.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for eight (8) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to them during 2020 but did not designate a reason. However, the Appellant Wife adduced testimony substantiated by a document from the insurer that she was covered under her father's plan and adduced other testimony regarding her Spouse's situation. (Appellant's Testimony, See Exhibit 4). See 956 CMR 6.08. The Appellants 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 Appellants because Appellants experienced a financial hardship as defined in 956 CMR 6.08.

The evidence provided by the Appellant established that their income for 2020, \$63,11.00 was more than 300% of the federal poverty level, which for 2020 was \$50,730.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$63,111 in 2020 and could have afforded \$399.70 per month. According to Table 4, Appellant, ages 23 and living in Worcester County during the time they were being penalized for not having insurance, could have purchased insurance for the Spouse at \$241.00 per month. Individual coverage was affordable through the individual market for the Appellant Spouse in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant Wife credibly testified that her Spouse did not have coverage as he changed employers at the beginning of the year and moved to a new employer when the pandemic started making it difficult to obtain insurance. Thus, the Appellant's Spouse did not have access to affordable "ESI."

Where the Appellant Husband did not have access affordable coverage through ESI but did have access to affordable coverage through the individual market, we need to determine if the Appellants experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08. et. seq. The Appellant may not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellant's tax penalty for 2020 could be waived if they 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's take-home net pay was approximately \$2,600 per month. (Appellant's Testimony). The Appellants had the following average monthly living expenses in 2020: Rent: \$1,100, Utilities: \$340, Cell Phone \$70, Food: \$400, Car Payment/ Insurance: \$385, Internet/Cable: \$45, Credit Card: \$100, Student Loans: \$1,200, totaling: \$3,640. (Appellant's Testimony). Moreover, the Appellant Wife was laid off from retail employment in 2021 and had to move back with family in 2021.

The evidence presented by the Appellant in this case is sufficient to establish that they experienced a financial hardship as defined by law so as to waive the penalty for the months in question. The Appellant did not have adequate income to pay their monthly expenses of \$3,640 and were unable to afford the cost of purchasing private insurance for \$ 399.70 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Moreover, the Appellant Wife was laid off from retail employment in 2021 and had to move back with family in 2021. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the Appellant to experience a serious deprivation of basic necessities.

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

PENALTY ASSESSED

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

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-742

Appeal Decision: The penalty is overturned in part.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 3, 2021
Decision Date: November 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 3, 2021. 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 2020 Signed by Appellant on 5/8/2021. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/15/2021 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed married filing separately with a family size of 1, was age 54 in 2020, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$103,941. (Exhibit 1).
3. Appellant did not have health insurance in 2020. (Exhibit 1, Appellant's Testimony).
4. Appellant worked full time for a landscaping company that did not offer health insurance. (Appellant's Testimony).
5. Appellant investigated obtaining insurance through the Connector but had trouble accessing the Connector which was exacerbated during Covid. (Appellant's Testimony).

6. Appellant was laid off during Covid without pay for approximately a month. (Appellant's Testimony).
7. Appellant obtained coverage through Connectorcare in 2021 and pays approximately \$400-\$500 a month. (Appellant's Testimony).
8. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
9. Appellant was helping with expenses for his wife and son. (Appellant's Testimony).
10. Appellant had the following average monthly living expenses in 2020: Rent: \$1,350, Utilities: \$200, Car Payment: \$200; Car Insurance: \$1,000, Internet/Cable: \$200, Credit Card: \$300, assisting w/ family expenses: \$83, totaling: \$3,333. (Appellant's Testimony).
11. According to Table 3 Appellant could have afforded \$692.94. per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$420.00 per month.
12. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
13. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$103,941.00 was more than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$103,941 in 2020 and could have afforded \$692.94 per month. According to Table 4, Appellant, age 54 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$420.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified that he worked for an employer with a small number of employees that did not offer health insurance for its employees. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI") for the months when he was employed full time. (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI and did have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused 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 2020: Rent: \$1,350, Utilities: \$200, , Car Payment: \$200; Car Insurance: \$1,000, Internet/Cable: \$200, Credit Card: \$300, assisting w/ family expenses: \$83, totaling: \$3,333. (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 2020 Federal Adjusted Gross Income of \$103,941, I find the Appellant had adequate income to pay his monthly expenses of \$3,333 and the cost of purchasing private insurance for \$692.94 per month. I find this would not have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3)

the cost of purchasing health insurance would have not caused the appellant to experience a serious deprivation of basic necessities.

Notwithstanding the foregoing analysis, the penalty will be reduced to eight months in order to mitigate the harshness of a full twelve-month assessment. Therefore, based upon the totality of the evidence, the appellant's penalty of twelve months will be **reduced** to eight months. Appellant should note that any waiver granted here is for 2020 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 8

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-743

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 3, 2021

Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 3, 2021. 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 2020 Signed by Appellant on 5/10/2021. | (2 PP). |
| Exhibit 3: | Health Connector's Notice of Hearing dated 10/15/2021 | (2 PP). |

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 22 in 2020, lived in Worcester County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$ 34,089. (Exhibit 1).
3. Appellant had previously been insured under his father's health insurance plan. (Appellant's Testimony).
4. Appellant's Father moved and Appellant's insurance was not continued. (Appellant's Testimony).
5. Appellant worked two (2) part time jobs while he attended for and paid for college. (Appellant's Testimony).

6. Appellant was busy with employment and school and did not have a chance to investigate obtaining insurance through the Connector. (Appellant's Testimony).
7. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
8. Appellant had the following average monthly living expenses in 2020: Car Insurance-Gas: \$400, Cell Phone \$40, Food: \$250, Tuition: \$900, Credit Card: \$70, Vehicle Repair \$500 annual/12: \$41.66, totaling: \$1,701. (Appellant's Testimony).
9. According to Table 3 Appellant could have afforded \$142.04. per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$269.00 per month.
10. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$34,089.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$34,089 in 2020 and could have afforded \$142.04 per month. According to Table 4, Appellant, age 22 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased insurance for \$269.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant credibly testified that he had two part time jobs while attending school and was not offered health insurance during the months he was penalized. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI") for the months when he was employed full time. (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Car Insurance-Gas: \$400, Cell Phone \$40, Food: \$250, Tuition: \$900, Credit Card: \$70, Vehicle Repair \$500 annual/12: \$41.66, totaling: \$1,701. (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 22 years old, was left without insurance, and worked two (2) part time jobs while attending and paying for college, he did not have adequate income to pay his monthly expenses of \$1,701 and the cost of purchasing private insurance for \$ 142.04 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-744

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 3, 2021
Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants appeared at the hearing, which was held by telephone on November 3, 2021. The Appellants were both present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. 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 2020 Signed by Appellant on 5/6/2021. (2 PP).
Exhibit 2(a): Appellant's Statement in Support of Appeal (1 PP).
Exhibit 2(a): Appellant's Supporting Documentation in Support of Appeal dated 6/11/20 (1 PP).
Exhibit 3: Health Connector's Notice of Hearing dated 10/15/2021 (2 PP).

The record was left open for the Appellant to submit confirmation of marriage date until November 26, 2021. On November 4, 2021, the Appellant submitted the following:

Exhibit 4: Massachusetts Marriage Certificate date: 9/17/2020.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2020 Massachusetts tax return filed married joint with a family size of 2, were ages 32 and 31, respectively in 2020, and lived in Norfolk County. (Exhibit 1).
2. Appellants' Federal Adjusted Gross Income for 2020 was \$87,214. (Exhibit 1).

3. Appellant Husband testified he arrived in Massachusetts in April 2020 and resided in Florida prior to residing in Massachusetts. (Appellant's Testimony).
4. Appellants testified they were married in September 2020. (Appellants' Testimony, Exhibit 4).
5. Appellant Spouse testified that her husband was not offered Employer Sponsored Insurance ("ESI") through her plan until 2021 because they were not eligible at time of her employer's special enrollment in 2021. (Appellant Spouse's Testimony, Exhibit 1).
6. Appellant Husband testified he did not begin working after he arrived in Massachusetts until June 2020.
7. Appellant Husband testified he worked in a restaurant and his employer did not offer Employer Sponsored Insurance because it is a seasonal position (Exhibit 2(a), Appellant's Testimony).
8. The Appellants testified their approximate net take home pay during the time they were both working from June 2020 was approximately \$5,000/month. (Appellant's Testimony).
9. Appellant Husband referenced he could not afford health insurance on his income. (Exhibit 2(a)).
10. Appellants had the following average monthly living expenses in 2020: Rent: \$2,200, Utilities: \$200, Food: \$100, Car Payment: \$300, Car Insurance: \$180, Gas: \$120, Food: \$100, totaling: \$3,200. (Appellants' Testimony).
11. Appellant Husband have been assessed a tax penalty for twelve (12) months in 2020. Appellant Spouse has not been assessed a penalty. The Appellant has appealed this assessment (Exhibits 1, 2).
12. According to Table 3 Appellants could have afforded \$581.43 per month for health insurance in 2020. According to Table 4, Appellant Husband could have purchased insurance an individual plan for \$288.00 per month.
13. The Appellant would not have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was more than 300% of the poverty level, which was \$50,730.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
14. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant Husband has been assessed a tax penalty for (12) months in 2020. The Appellant Spouse had ESI and was not assessed a penalty. Appellant has appealed the penalty. (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 2020 because Appellants experienced a financial hardship as defined in 956 CMR 6.08. The Appellant Husband did not have insurance from January through December. (See Exhibit 1). The Appellant Spouse had ESI.

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

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

The evidence provided by the Appellant established that their income for 2020, \$87,214.00 was more than 300% of the federal poverty level, which for 2020 was \$50,730.00 for a family size of two (2). According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$ 87,214 in 2020 and could have afforded \$581.43 per month. According to Table 4, Appellant, age 31 and living in Norfolk County during the time they were being penalized for not having insurance, could have purchased an individual insurance plan for \$288.00 per month. Individual coverage was affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant Husband credibly testified that he was not offered Employer Sponsored Insurance (“ESI”) because it is a seasonal position. (Exhibit 2(a)). Thus, the Appellant did not have access to affordable “ESI” for the months from time he arrived in Massachusetts in June through December 2020. After applying the three (3) month waiver from April 2020 through June 2020, the months left for consideration of a from July through December 2020. The Appellant testified he could not afford insurance on his income, which I find credible and would have been applicable prior to his marriage in September.

Where the Appellant Husband did not have access affordable coverage through ESI and did have access through the individual market, we need to determine if the Appellants experienced a financial hardship such the coverage would have been unaffordable for them. See 956 CMR 6.08. et. seq. The Appellants may not be subject to a penalty for failing to get health insurance for the months in question if they can show that they experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected

increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if they 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 2020: Rent: \$2,200, Utilities: \$200, Food: \$100, Car Payment: \$300, Car Insurance: \$180, Gas: \$120, Food: \$100, totaling: \$3,200.

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 the penalty for the months in question. However, given the Appellant did not arrive in Massachusetts until April and did not begin working until June, I find he did not have the income to afford health insurance. Moreover, he was married in September and was not able to join his Spouse's ESI during open enrollment. Accordingly, the penalty will be waived under 956 CMR 6.08(3). Moreover, the mandate has not been lost on the Appellants as the Appellant Husband is currently insured under his Spouse's employer plan.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-746

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 3, 2021
Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 3, 2021. 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 2020 Signed by Appellant on 5/14/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/15/2021	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 36 in 2020, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$ 33,394. (Exhibit 1).
3. Appellant's employment became part time after his employment resumed in June 2020 because of Covid. (Appellant's Testimony).
4. Appellant did not have access to Employer Sponsored Insurance as a part time employee (Appellant's Testimony).

5. Appellant did not investigate obtaining insurance through the Connector. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant was netting approximately \$800 a week comprised of part time wages and unemployment. (Appellant's Testimony).
8. Appellant testified his lease was expiring and he could not afford purchasing insurance because he needed to set aside money for a new tenancy and to pay his basic living expenses. (Appellant's Testimony, Exhibit 2(a)).
9. Appellant had the following average monthly living expenses in 2020: Rent: \$950, Utilities: \$120, Internet: \$40, Cell Phone: \$35, Food: \$480, totaling: \$1,625. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$139.14. per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$298.00 per month.
11. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$33,394.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$33,394 in 2020 and could have afforded \$139.14 per month. According to Table 4, Appellant, age 36 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$298.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did not have access to employer health insurance when he was employed part time. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Rent: \$950, Utilities: \$120, Internet: \$40, Cell Phone: \$35, Food: \$480, totaling: \$1,625. (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 working in the restaurant business during Covid, was unemployed for a time, resumed only part time employment and needed to set aside money for his future living arrangements, he did not have adequate income to pay his monthly expenses of \$1,625 and afford the cost of purchasing private insurance for \$139.14 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956

CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-778

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 12, 2021

Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 12, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2020 Signed by Appellant on 5/10/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 2(b):	Appellant's Documentation in Support of Appeal	(4 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/18/2021	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 28 in 2020, lived in Hampshire County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$28,237. (Exhibit 1).
3. Appellant was unemployed through the first half of the year. (Appellant's Testimony).
4. Appellant was able to collect unemployment at approximately \$900 a week beginning in March 2020. (Appellant's Testimony).

5. Appellant returned to work as a part time server in but did not have access to Employer Sponsored Insurance(“ESI”) as a part time employee (Appellant’s Testimony).
6. In March, the Appellant attempted to but was unable to obtain insurance through the Connector because of an input error resulting in inaccurate income information which precluded his eligibility. (Appellant’s Testimony, Exhibits 2(a), (b)).
7. Appellant referenced that his income in March when he spoke with the Connector was zero as he had not yet been receiving unemployment. (Appellant’s Testimony).
8. Appellant testified that he attempted to correct the in-accuracies and same was acknowledged. (Appellant’s Testimony, Exhibits 2(a), (b)).
9. Appellant attempted to submit applications in March 2020 and October 2020. (Appellant’s Testimony, Exhibits 2(a), (b)).
10. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
11. Appellant was netting approximately \$1,100 a week comprised of part time wages and unemployment. (Appellant’s Testimony).
12. Appellant had the following average monthly living expenses in 2020: Car payment: \$600, Car Insurance: \$150, Food: \$100, totaling: \$850. (Appellant’s Testimony).
13. According to Table 3 Appellant could have afforded \$98.82 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$241.00 per month.
14. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant’s income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant’s Testimony).
15. The Appellant testified he obtained coverage through the Connector in April 2021 and is currently insured. (Appellant’s testimony).
16. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2020 because of Other: that he was unable to obtain government-subsidized insurance even though his income qualified him. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2020, \$28,237.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$28,237 in 2020 and could have afforded \$98.92 per month. According to Table 4, Appellant, age 28 and living in Hampshire County during the time he was being penalized for not having insurance, could have purchased insurance for \$241.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did not have access to employer health insurance when he was employed part time. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Car payment: \$600, Car Insurance: \$150, Food: \$100, totaling: \$850. (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 was working in the restaurant business during Covid, was unemployed for a time, resumed only part time employment, but appeared to have adequate income to pay his monthly expenses of \$850 and afford the cost of purchasing private insurance for \$98.92 per month.

However, the Appellant adduced credible testimony and supporting documentation that he met the criteria under the regulations and that his penalty should be waived. I find credible evidence that the Appellant attempted to but was unable to obtain insurance through the Connector because of an input error resulting in inaccurate income information which precluded his eligibility. Appellant credibly testified and referenced that his income in March when he spoke with the Connector was zero. The Appellant continued to attempt to obtain insurance and submitted applications in March 2020 and October 2020. (Appellant's Testimony, Exhibits 2(a), (b)). Moreover, the mandate was never lost on the Appellant given his above efforts as well as his ability to obtain coverage in 2021. Accordingly, based on the totality of the evidence, I find that the that pursuant to 956 CMR 6.08(3) the Appellant's penalty should be waived in its entirety.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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 20-803

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

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

Hearing Date: November 15, 2021

Decision Date: November 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants appeared at the hearing, which was held by telephone on November 15, 2021. 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: Statement of Grounds for the Appeal dated May 16, 2021.
- Exhibit 2: Letter from Appellants in support of appeal dated May 16, 2021.
- Exhibit 3: Appeal Case Information from Schedule HC dated September 13, 2021.
- Exhibit 4: HC Appeals Unit Notice of Hearing dated October 22, 2021.

FINDINGS OF FACT

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

1. The Appellant against whom the penalty was assessed ("Appellant") turned 33 years old and resided in Bristol County in 2020. (Exhibit 3).
2. Appellants filed their 2020 Federal Income Tax return married filing jointly with zero dependents claimed, reporting an Adjusted Gross Income of \$221,172. (Exhibit 3).
3. Appellants submitted a Statement of Grounds for Appeal, dated May 16, 2021, claiming that "Other" circumstances occurring during 2020 made health insurance not affordable for the Appellant. (Exhibit 1).

4. Appellant was employed and had employer sponsored health insurance (“ESI”) in January and February of 2020. (Exhibits 2 and 3; Appellants’ Testimony).
5. In mid to late February, 2020, Appellant left his job. (Exhibit 2; Appellants’ Testimony).
6. Appellant enrolled onto his spouse’s ESI during the employer’s open enrollment, with coverage beginning in January of 2021. (Exhibit 2; Appellant Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

In support of his appeal, Appellant submitted a Statement of Grounds, claiming that “Other” circumstances occurring during 2020 made health insurance not affordable for Appellant. (Exhibit 1).

A determination must be made whether the seven-month 2020 Tax Year penalty assessed against Appellant should be waived in whole or in part. To make this determination, there must be an evaluation of whether affordable insurance meeting minimum creditable coverage standards was available to Appellant in 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule, and second, to the cost of health insurance that was available to Appellant through employer-sponsored plans, government-subsidized programs or on the private insurance market. *See* 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellant experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellants’ 2020 AGI of \$221,172 made Appellant ineligible for Connector Care (eligibility for government-subsidized health insurance is based on income being no more than 300% of the Federal Poverty Level, which in 2020 was \$50,730 for a family of two).

Because Appellants' 2020 AGI of \$221,172 was greater than 300% of the FPL, Appellant was ineligible for subsidized health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellant, living in Bristol County, \$576 per month to purchase a family plan on the private insurance market (and \$288 to purchase an individual plan, as his spouse had health insurance for the entirety of 2020). Based on the Affordability Schedule, Appellant, filing the Federal tax return jointly with zero dependents, with an AGI of \$221,172 could afford to pay \$1,474 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was less than the amount Appellant could afford, I conclude that affordable private insurance was available to Appellant in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellant testified that after he left his job in February he repeatedly contacted MassHealth for coverage and left multiple voice messages. (Appellant Testimony). Appellant claims that once he was able to reach someone at MassHealth, he was told that he would be placed on a waiting list and someone would contact him "to set up MassHealth in the future." (Exhibit 2). During the hearing, an attempt was made to clarify if Appellant was referring to the Health Connector rather than MassHealth, as Appellant would not have been eligible for MassHealth with earnings of \$221,172. (Individuals earning less than 150% of the FPL are eligible for MassHealth, which in 2020 was earnings of less than \$25,365 for a family of two.) Appellant was not able to respond to this inquiry definitively, which is significant for the fact that Appellant claims that his failure to obtain health insurance after he left his job in or around February of 2020 was because no one from MassHealth called him back until almost one year later, sometime in early 2021. (Exhibit 2). When prodded, Appellant claimed he contacted both MassHealth and the Heath Connector. (Appellant Testimony). When asked why he had not simply completed an on-line application, Appellant claimed he did complete an on-line application but that he was told he needed to contact someone in person. (Appellant Testimony). When asked whether this on-line application was with MassHealth or with the Health Connector, Appellant claimed that he completed an application for each, and that "none of his applications were being put through." (Applicants' Testimony). Appellant then claimed that he repeatedly received error messages when attempting both on-line applications, which prompted him to call MassHealth and/or the Health Connector. (Appellant Testimony). In the letter submitted in support of his appeal, Applicant did not reference on-line applications, receiving repeated error messages, or problems reaching customer services representatives at both MassHealth and the Connector. (Exhibit 2). I do not credit Appellant's testimony pertaining to his efforts at obtaining health insurance.

Based on the Tables, I find that in 2020 Appellant had access to affordable private insurance. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Because Appellant had access to affordable private health insurance, it must be determined whether he experienced a financial hardship in 2020 such that he could not purchase otherwise affordable health insurance. 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 fire, flood or a natural disaster, domestic violence, death of a family member, sudden responsibility for providing care

for a family member, if the expense of purchasing health insurance would have caused a serious deprivation of food, shelter or other necessities, and any other grounds that demonstrate unaffordability. See 956 C.M.R. 6.08 and 956 C.M.R. 12.11. Appellant did not testify to experiencing any of these circumstances in 2020. I find that Appellants did not experience a financial hardship as defined in 956 C.M.R. 6.08.

Accordingly, Appellant's seven-month penalty is **UPHELD**.

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

If you disagree with this decision, you have the right to appeal to Court in accordance with 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 20-805

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

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

Hearing Date: November 15, 2021

Decision Date: December 9, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone on November 15, 2021. 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: Statement of Grounds for the Appeal dated May 26, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC dated September 14, 2021.
- Exhibit 3: Letter from Appellant in support of appeal dated May 25, 2021.
- Exhibit 4: Health Connector Appeals Unit Notice of Hearing dated October 22, 2021.

FINDINGS OF FACT

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

1. Appellant Husband turned 56 years old, Appellant Wife turned 59 years old, and they resided in Plymouth County in 2020. (Exhibit 2).
2. Appellants filed their 2020 Federal Income Tax return as married filing jointly, with no dependents claimed, reporting an Adjusted Gross Income of \$105,900. (Exhibit 2).
3. Appellants submitted a Statement of Grounds for Appeal, dated April 9, 2021, and a letter in support of their appeal, claiming that in 2020 they were unable to afford the cost of purchasing health insurance. (Exhibit 3).

4. Appellant's Wife separated from her full-time employer in August 2019, and Appellants lost their employer sponsored health insurance ("ESI") at the same time. (Exhibit 3; Appellants' Testimony).
5. Appellant Wife applied for unemployment benefits upon her separation in August of 2019, and after two appeal hearings she was awarded unemployment benefits, which she finally received in March of 2021. (Exhibit 3; Appellants' Testimony).
6. Appellant Wife was out of work from August 2019 until February 2020, and had no income during this time period. (Exhibit 3; Appellant's Testimony.)
7. Appellant Wife returned to work in a full-time, temporary status in February of 2020, for an employer offering ESI after a 90-day probation period. (Exhibit 3; Appellants' Testimony).
8. Approximately one month later, due to the pandemic, Appellant Wife's employer reduced her hours to 15 per week. (Exhibit 3; Appellants' Testimony).
9. In 2020 and currently Appellant Husband works as a 'flat rate' automotive technician which results in weekly paychecks which vary, based on circumstances outside of his control. (Exhibit 3; Appellants' Testimony).
10. Appellant Husband's employer offers health insurance at a cost of \$525 per month for a family plan, with a \$6,000 deductible. (Exhibit 3; Appellants' Testimony).
11. Appellant Wife is currently working full time, at an hourly wage rate that is lower than her previous wage rate. (Exhibit 3; Appellants' Testimony).
12. In December 2020, Appellants enrolled in Appellant Husband's ESI, despite the \$6,000 deductible. (Exhibit 3; Appellants' Testimony).

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Pursuant to the Connector's Administrative Bulletin 03-10, applying M.G.L. c. 111M, §2(b), taxpayers are given a three-month grace period for any lapse in coverage to allow the taxpayer to obtain health

insurance coverage or to make the transition between health insurance policies. Because Appellants had health insurance for a portion of 2020, Appellants are entitled to a three-month grace period, and each is appealing an eight-month tax penalty for 2020. (Exhibit 2).

In support of their appeal, Appellants submitted a Statement of Grounds and a letter, claiming that 2020 they were unable to afford the cost of purchasing health insurance. (Exhibits 2 and 3).

A determination must be made whether the eight-month 2020 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 meeting minimum creditable coverage standards was available to Appellants in 2020. 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 2020 Schedule HC Instructions and Worksheets. If affordable insurance was available, it must be determined if such insurance was, in fact, not affordable based on Appellants experiencing a financial hardship, as defined in 956 C.M.R. 6.08.

According to Schedule HC for 2020 Table 2, I find that Appellants' 2020 AGI of \$105,900 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 2020 was \$50,730 for a family size of two). Because Appellants' 2020 AGI of \$105,900 was greater than 300% of the FPL, they were ineligible for subsidized health insurance through the Connector. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 2. See 2020 Schedule HC Instructions and Worksheets, Table 2.

Based on Schedule HC for 2020 Table 4, it would have cost Appellants, ages 56 and 59 and living in Plymouth County, \$864 per month to purchase a family plan on the private insurance market. Based on the Affordability Schedule, Appellants, filing the Federal tax return jointly with no dependents, with an AGI of \$105,900 could afford to pay \$706 per month for health insurance. See 2020 Schedule HC Instructions and Worksheets, *supra*, at Table 3. Based on the Tables, because the cost of private health insurance was greater than the amount Appellants could afford, I conclude that affordable private insurance was not available to Appellants in 2020. See 2020 Schedule HC Instructions and Worksheets, Tables 3 and 4.

Appellants credibly testified to the financial difficulties they experienced in 2020 due to the loss of Appellant Wife's job in 2019, the delay experienced in receiving unemployment benefits and the reduction in hours once she returned to work. Appellant Wife separated from her full-time employer in August 2019, which resulted in Appellants losing their ESI. (Exhibit 3; Appellants' Testimony). Appellant Wife applied for unemployment benefits, and after two appeal hearings was awarded unemployment benefits, which she did not receive until early 2021. (Exhibit 3; Appellants' Testimony). Appellant Wife had no income during the time period from August 2019 until she returned to work full-time in February of 2020. (Exhibit 3; Appellant's Testimony.) Shortly after her return to work however, Appellant Wife's employer reduced her hours to 15 per week based on the pandemic and office closures. (Exhibit 3; Appellants' Testimony). In 2020 and currently Appellant husband works as a 'flat rate' automotive

technician which results in paychecks that vary week to week based on workflow that employee does not control. (Exhibit 3; Appellants' Testimony). Appellant Wife is now working full time, at a lower hourly wage rate than before. (Exhibit 3; Appellants' Testimony). In 2020 Appellant Husband's employer offered health insurance at a cost of \$525 per month for a family plan, with a \$6,000 deductible, and Appellants enrolled into this insurance in December of 2020. (Exhibit 3; Appellants' Testimony).

While Appellants had access to ESI through Appellant Husband's employer in 2020, I conclude that their 2020 circumstances, including loss of income, delayed unemployment benefits, reduced hours and inconsistent paycheck amounts made this ESI unaffordable for Appellants. Individuals who do not have access to affordable health insurance, whether private, government subsidized or through an employer, are not subject to the individual mandate penalty. Given that Appellants were not eligible for subsidized care through the Health Connector, and neither affordable ESI nor private health insurance was available to them, I find that Appellants are not subject to the individual mandate penalty for 2020.

Accordingly, Appellants' appeal is **GRANTED** and the eight-month 2020 Tax Penalty assessed against each is **OVERTURNED**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-817

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 19, 2021

Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 3, 2021. 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 2020 Signed by Appellant on 4/29/2021. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 10/22/2021 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 50 in 2020, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$29,450. (Exhibit 1).
3. Appellant was employed in a seasonal construction job prior to becoming unemployed in April, 2020 because of Covid. (Appellant's Testimony).
4. Appellant did not have access to Employer Sponsored Insurance ("ESI") as a seasonal and part time employee when he was employed in 2020. (Appellant's Testimony).

5. Appellant did not investigate obtaining insurance through the Connector but testified he thought it would be difficult because of his seasonal employment and changing income. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant was not able to provide income information for the periods he was employed in 2020.
8. Appellant received unemployment in the amount of \$600 to a \$900 a week from April through September, 2020. (Appellant's Testimony).
9. Appellant testified he returned to part time temporary seasonal employment in September, 2020 where he was paid \$40 an hour, left that position and then found part time temporary employment at \$35 an hour.
10. Appellant testified he expects to be laid off again and is concerned he won't have adequate income to meet his basic living expenses.
11. Appellant testified that he could not afford could not afford purchasing insurance because he needed to set aside money for basic living expenses like rent and food. (Appellant's Testimony).
12. Appellant had the following average monthly living expenses in 2020: Rent: \$600, Utilities: \$100, Car Payment: \$400, Car Insurance: \$250, Gas/Transportation Costs: \$400, Cell Phone: \$100, Food: \$400, Credit Cards: \$100, totaling: \$2,350. (Appellant's Testimony).
13. According to Table 3 Appellant could have afforded \$103.08 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$432.00 per month.
14. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
15. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal, claiming that the individual mandate did not apply to him during 2020 because the expense of purchasing health insurance

would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities and that during 2020. See 956 CMR 6.08.

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

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

The evidence provided by the Appellant established that his income for 2020, \$29,450.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$ 29,450 in 2020 and could have afforded \$103.08 per month. According to Table 4, Appellant, age 55 and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased insurance for \$432.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did not have access to employer health insurance when he was employed part time as a seasonal construction worker. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Rent: \$600, Utilities: \$100, Car Payment: \$400, Car Insurance: \$250, Gas/Transportation Costs: \$400, Cell Phone: \$100, Food: \$400, Credit Cards: \$100, totaling: \$2,350. (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 working in part-time in a seasonal construction business with a sporadic income, was laid off during Covid, was unemployed for a time, resumed only part time employment and needed to set aside money for his basic living expenses like rent and food, he did not have adequate income to pay his monthly expenses of \$2,350 and afford the cost of purchasing private insurance for \$103.08 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-819

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 19, 2021
Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 3, 2021. 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 2020 Signed by Appellant on 5/20/2021.	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 PP).
Exhibit 2(b):	Appellant's Documentation in Support of Appeal	(4 PP).
Exhibit 2(c):	Appellant's Financial Statements in Support of Appeal	(4 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/22/2021	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 41 in 2020, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$19,981. (Exhibit 1).
3. Appellant was unemployed in 2020. (Appellant's Testimony).
4. Appellant did not investigate obtaining public sponsored insurance through the Connector. (Appellant's Testimony).

5. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
6. Appellant received unemployment in the amount of \$300 to a \$600 a week from April through December, 2020. (Appellant's Testimony).
7. Appellant testified he spent his savings to afford his basic living expenses. (Appellant's Testimony, Exhibits 2(a)-(c)).
8. Appellant testified that 2019 was a difficult year, understood the importance of being insured, and was not avoiding purchasing insurance but was unable to afford same. (Appellant's Testimony, Exhibit 2(a)).
9. Appellant testified that he could not afford could not afford purchasing insurance because he needed to set aside money for basic living expenses like rent and food. (Appellant's Testimony).
10. Appellant had the following average monthly living expenses in 2020: Rent: \$600, Utilities: \$400, Car Insurance: \$125, Gas/Transportation Costs: \$150, Cell Phone: \$123, Internet: \$69.99, Credit Cards: \$400, totaling: \$1,867.99. (Appellant's Testimony).
11. According to Table 3 Appellant could have afforded \$48.07 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$316.00 per month.
12. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
13. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$19,891.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$19,891 in 2020 and could have afforded \$48.07 per month. According to Table 4, Appellant, age 41 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$316.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did not have access to employer health insurance when he was not employed in 2020. Thus, the Appellant did not have access to affordable Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants’ tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020: Rent: \$600, Utilities: \$400, Car Insurance: \$125, Gas/Transportation Costs: \$150, Cell Phone: \$123, Internet: \$69.99, Credit Cards: \$400, totaling: \$1,867.99. (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 out of work, did not begin collecting until later in 2020, and used his savings to pay for

essential living expenses, he did not have adequate income to pay his monthly expenses of \$1,867.99 and afford the cost of purchasing private insurance for \$48.07 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA20-820

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 19, 2021
Decision Date: November 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on November 3, 2021. 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 2020 Signed by Appellant	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/22/2021	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return filed single with a family size of 1, was age 48 in 2020, lived in Bristol County, and had zero (0) dependents. (Exhibit 1).
2. Appellant's Federal Adjusted Gross Income for 2020 was \$24,196. (Exhibit 1).
3. Appellant was employed full time 40 hours per week where he was paid \$23 an hour until becoming unemployed in April 2020 because of Covid. (Appellant's Testimony).
4. Appellant had access to Employer Sponsored Insurance("ESI") but had a large amount of credit card debit and could not afford the approximate monthly premiums of \$520 per month. (Appellant's Testimony).

5. Appellant investigated obtaining insurance through the Connector but testified but did not think he could afford insurance and then ceased pursuing public sponsored insurance when Covid happened. (Appellant's Testimony).
6. Appellant has been assessed a tax penalty for twelve (12) months in 2020. The Appellant has appealed this assessment (Exhibits 1, 2).
7. Appellant collected unemployment from April through the end of year at approximately \$558 per week. (Appellant's Testimony).
8. Appellant moved back to his parent's home in September 2020.
9. Appellant had the following average monthly living expenses in 2020: Rent: \$1,066(\$1,600 a month for 8 mos.), Utilities \$66.66 for 8 mos., Cable Internet \$200, Car Payment: \$364, Car Insurance: \$100, Gas/Transportation Costs: \$500, Food: \$300, totaling: \$2,596.66. (Appellant's Testimony).
10. According to Table 3 Appellant could have afforded \$58.47 per month for health insurance in 2020. According to Table 4 Appellant could have purchased insurance for \$361.00 per month.
11. The Appellant would have been eligible for ConnectorCare coverage in 2020 because the Appellant's income was less than 300% of the poverty level, which was \$37,470.00. (See Table 2 of Schedule HC 2020, Appellant's Testimony).
12. In addition to the foregoing, I take administrative notice of the 2020 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2020>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2020. Appellant has appealed the penalty. (See Exhibits 1 and 2).

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

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

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

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

The evidence provided by the Appellant established that his income for 2020, \$24,196.00 was less than 300% of the federal poverty level, which for 2020 was \$37,470.00 for a single person. According to Table 3 of Schedule HC for 2020, the Appellant had an adjusted gross income of \$ 24,196 in 2020 and could have afforded \$58.47 per month. According to Table 4, Appellant, age 48 and living in Bristol County during the time he was being penalized for not having insurance, could have purchased insurance for \$361.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2020 (Schedule HC for 2020).

The next issue to consider is whether the Appellant had access to affordable employer health insurance in 2020. The Appellant testified that he did have access to employer health insurance when he was employed full time from January through March 2020 but could not afford the premiums of \$520 a month. Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2020 is considered to be affordable if the employee's contribution for an individual plan is 9.78 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 testified that monthly cost for a plan through the Appellant's employer was approximately \$520. That cost is more than 9.78 percent of the Appellant's projected household MAGI for 2020 (i.e.—9.78 percent of \$24,196.00 is \$2,366.36/12 or \$197.20/month). Hence, since the cost of employer insurance of \$520 per month is more than \$197.20/month, he is considered to not have had access to affordable qualifying employer health insurance for those months for which he was employed full time. See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). (Appellant's Testimony). Thus, the Appellant did not have access to affordable Employer Sponsored Insurance ("ESI"). (Appellant's Testimony).

Where the Appellant did not have access affordable coverage through ESI and did not have access 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 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the Appellants' tax penalty for 2020 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The Appellant had the following average monthly living expenses in 2020. Rent: \$1,066(\$1,600 a month for 8 mos.), Utilities \$66.66 for 8 mos., Cable Internet \$200, Car Payment: \$364, Car Insurance: \$100, Gas/Transportation Costs: \$500, Food: \$300, totaling: \$2,596.66. (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 working was laid off during Covid and was unemployed through the remainder of the year, he did not have adequate income to pay his monthly expenses of \$2,596.66 and afford the cost of purchasing private insurance for \$58.47 per month. I find this would have caused the Appellant to experience a serious deprivation of food, shelter clothing, or other necessities. Accordingly, I determine that pursuant to 956 CMR 6.08(1)(e), (3) the cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities and waive the penalty.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the Appellant still does not have health insurance, and if his income and employment have not changed, 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: PA19-366

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

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

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

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

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

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

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

FINDINGS OF FACT

The record shows, and I so find:

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-583

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 5, 2021

Decision Date: November 2, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant’s Statement of Grounds for Appeal – 2020 (3 pages);
3. Clinic Summary of January – December 2020 Treatment Costs (2 pages);
4. Bank Wire 2020 Transfer Documents (14 pages);
5. Yahoo Mail 2020 Money Transfers (32 pages);
6. [There is no Exhibit 6.0];
7. 2019 Tax Penalty Appeal Decision (PA19-210) (4 pages, dated 7/30/2020); and
8. Health Connector’s Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 12 month penalty for 2020. The basis for the penalty was that the Appellant was not insured at any time in 2020. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate.
2. The Appellant was also uninsured for 12 months in 2019, the year prior to this appeal. For 2019 a Health Connector hearing officer reduced the penalty from 12 months to 3 months under the Health Connector's hardship regulations. The 2019 hearing decision is dated July 30, 2020, and it appears as Exhibit 7 to the hearing record in this 2020 appeal. See also Exhibit 1 (noting 2019 appeal).
3. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$42,246. Exhibit 1. The Appellant's 2020 AGI was less than the \$47,269.56 AGI that he reported for 2019. Exhibit 7, Finding of Fact No. 6 (page 2).
4. The Appellant was 31 years old in 2020 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.
5. The Appellant's 2020 AGI (\$42,256) was more than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 7.45% of his income -- or \$262 per month -- for health insurance coverage in 2020. (The calculation is 7.45 % multiplied by \$42,256 AGI = \$3,148.07 per year divided by 12 months = \$262.33 per month.)
7. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$288 per month in 2020.

8. In 2019 and continuing into early 2020 the Appellant had both a full-time and a part-time job. For the remainder of 2020, during the coronavirus pandemic, the Appellant had only one job. Consequently, the Appellant earned approximately \$5,000 less in 2020 than he had earned in 2019. Testimony and Findings of Fact, No. 3, above.
9. For 2020 the Appellant did not enroll in the health plan offered by his employer that cost \$130 every two weeks, or slightly more than he could afford to pay under DOR Table 3, above. Testimony and Findings of Fact, No. 6, above. See also Exhibit 7 at page 3 (employer's health plan cost \$260 per month in 2019).
10. In both 2019 and 2020 the Appellant, who is his Mother's only living child, sent money to his Mother in Nigeria to pay for her health care needs, as reflected in Exhibits 3, 4 and 5 that the Appellant submitted in support of his 2020 appeal. Testimony. See also Exhibit 7, Findings of Fact, Nos. 9 and 10.
11. The 2020 bill for services to his Mother at one clinic totaled \$11,072.33. Exhibit 3, page 2. I accept the Appellant's hearing testimony that his total 2020 expenses were between \$15,000 and \$16,000, which is approximately \$5,000 more than the \$11,000 that he paid for his Mother's care in 2019. Exhibit 7, Findings of Fact, No. 10. The cost for medical services increased in 2020 during the coronavirus pandemic. Testimony.
12. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant's 2020 Massachusetts income tax return.
13. The Appellant's 2020 basic living expenses continued at the same approximate level as 2019. See Exhibit 7, page 3, and Testimony. The Appellant has extensive student loans for which he did not produce supporting documents and that were affected in 2020 by the coronavirus pandemic. His credit card debt totals approximately \$10,000. He does not own a car. Testimony.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions

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

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 12 month tax penalty because the Appellant did not have health insurance coverage in 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

applying Mass. Gen. Laws 111M, sec. 2(b). See also DOR Instructions, at page HC-3. A tax penalty will not be assessed during the 3-month administrative grace period.

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The principal issue presented in this appeal is the substantial financial assistance that the Appellant provided to his Mother in Nigeria to cover her medical needs in 2019 and in 2020. In the Appellant's 2019 appeal a different Health Connector hearing officer reduced the 12 month penalty assessed by the Department of Revenue to 3 months. After considering all the circumstances I conclude that it is appropriate waive the entire penalty that was assessed for 2020.

The underlying hardship issue is the same for both the 2019 and the 2020 appeals. The principal differences are that the Appellant's earnings in 2020 are approximately \$5,000 lower than his earnings in 2019 and that the amount that the Appellant contributed to his Mother's medical care is approximately \$5,000 more in 2020 than it was in 2019. See Findings of Fact, Nos. 8 and 11, above. In addition, for 2020 the application of DOR Tables 3 and 4 indicates that the amount that the Appellant could afford to pay for health insurance (\$262 per month) is less than the amount that it would cost (\$288 per month). See Findings of Fact, Nos. 6 and 7, above.

For the foregoing reasons, I waive the entire penalty assessed for 2020 under the Health Connector's hardship regulations. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e). However, since it is now the beginning of the open enrollment period for Health Connector coverage for 2022 and likely also for employer-sponsored health plans, I recommend that the Appellant submit applications so that he can learn what is available to him under his current circumstances in late 2021 should he still be uninsured.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been

assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-594

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: October 15, 2021
Decision Date: November 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 15, 2021.

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

Exhibit 1	Hearing Notice dated September 2, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal and Eversource Documents	7 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 37 years old in February 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Hampden County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$35,984.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$35,984.00, could afford to pay \$149.93 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 37, living in Hampden County, could have purchased private market health insurance for \$265.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Appellant worked for a landscape and design company during 2020, which did not offer health insurance to its employees. (Appellant's Testimony).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$35,984.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 1).
10. The Appellant's hours were reduced during 2020 because of the Covid-19 pandemic. Consequently their regular income was reduced and was unpredictable. (Appellant's Testimony).
11. During 2019, the Appellant worked out of state and was not familiar with the ConnectorCare requirements and option for possible health insurance coverage. (Appellant's Testimony).
12. The Appellant had a roommate during 2020 with whom they split expenses. Because of the reduction in their work hours, Appellant was not able to pay their share of the living

expenses. Consequently, they received a utility shutoff notice from Eversource. (Appellant's Testimony, which I credit, and Exhibit 3)

13. The Appellant currently has MCC-compliant health insurance through their spouse's employer. (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 checked the box on the Statement of Grounds for Appeal stating "Other" and referred to their supporting letter. (Exhibit 3 and Appellant's Testimony).

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

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$35,984.00, could afford to pay \$149.93 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 37, living in Hampden County, could have purchased private market health insurance for \$265.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Appellant worked for a landscape and design company during 2020, which did not offer health insurance to its employees. (Appellant's Testimony).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$35,984.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant’s Testimony and Exhibit 1). However, the Appellant was not aware of the ConnectorCare option because they had worked out-of-state in 2019. (Appellant’s Testimony).

The Appellant’s hours were reduced during 2020 because of the Covid-19 pandemic. Consequently their regular income was unpredictable. (Appellant’s Testimony). During 2019, the Appellant worked out of state and was not familiar with the ConnectorCare requirements and option for possible health insurance coverage. (Appellant’s Testimony).

The Appellant had a roommate during 2020 with whom they split expenses. Because of the reduction in their work hours, Appellant was not able to pay their share of the living expenses. Consequently, they received a utility shutoff notice from Eversource. (Appellant’s Testimony, which I credit, and Exhibit 3)

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

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the pandemic created an unanticipated hardship for the Appellants, within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. The Appellant currently has MCC-compliant health insurance coverage. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-596

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: October 15, 2021

Decision Date: November 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer on the Appeal Case Information from Schedule HC for 2020 (Primary Taxpayer) did not appear at the hearing, which was held by telephone on October 15, 2021. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did appear at the hearing on that date and was authorized by their spouse to speak on the Primary Taxpayer's behalf to the extent necessary. (Appellant Spouse's Testimony).

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

Exhibit 1	First Hearing Notice dated September 2, 2021	2
Exhibit 2	Appeal Case Info. from Sch. HC for 2020	1
Exhibit 3	Statement of Grounds for Appeal and Supporting Letter	4

FINDINGS OF FACT

The record shows, and I so find:

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

1. The Primary Taxpayer turned 40 years old in July 2020. The Primary Taxpayer filed their Federal Income Tax Return as a married person, filing jointly, with two (2) dependents claimed. (Exhibit 3).
2. The Appellant Spouse turned 41 years old in October 2020. (Exhibit 3).
3. The Appellants lived in Middlesex County, MA during 2020. (Exhibit 3).
4. The Appellants' Federal Adjusted Gross Income for 2020 was \$92,071.00. (Exhibit 3).
5. The Primary Taxpayer had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020 and was not assessed a tax penalty according to Appeal Information from Schedule HC for 2020. (Exhibit 3).
6. Appellant Spouse did not have health insurance coverage during any months of tax year 2020 according to Appeal Information from Schedule HC for 2020 and was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020. (Exhibit 3).
7. 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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two (2) dependents claimed, with an annual adjusted gross income of \$92,071.00, could afford to pay \$613.81 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 40, living in Middlesex County, could have purchased private market health insurance for \$793.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Primary Taxpayer in 2020.
9. The Primary Taxpayer's employer offered health insurance to the Primary Taxpayer but not to the Appellant Spouse and their two young children. (Appellant Spouse's Testimony, which I credit). Thus, employer-sponsored insurance was not available to the Appellant Spouse and their two dependents.
10. The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2020 because their Federal Adjusted Gross Income of \$92,071.00 was more than the Federal poverty level of \$77,250.00 for a family of four. (Schedule HC for 2020).

11. The Primary Taxpayer's work hours were reduced significantly during 2020 because of the Covid-19 pandemic, thus causing a reduction in income. (Appellant Spouse's Testimony and Exhibit 3)
12. The Appellant Spouse was a small business owner. When the pandemic hit, they lost virtually all their bookings and, therefore, all their income from February through December 2020. (Appellant Spouse's Testimony, which I credit).
13. The Appellant Spouse applied for unemployment benefits but their application was delayed for several months because of an identity fraud claim. They are still in the process of appealing their claim for unemployment benefits for 2021.² (Appellant's Testimony, which I credit).
14. The Primary Taxpayer and Appellant Spouse have two young children who were attending school remotely during 2020. As a result, their internet, electricity, heat and other living expenses increased substantially during 2020. (Appellant Spouse's Testimony).
15. Appellants' 2020 monthly living expenses of \$5,838.33 included: Mortgage - \$2,500.00, Heat - \$333.33, Gas - \$25.00, Car payments (2 cars) - \$1,000.00, Car insurance - \$200.00, Electricity - \$350.00, Heat/hot water - \$100.00, Student loans - \$130.00, Phone - \$300.00, Cable/internet - \$400.00, Credit card debt - \$500.00, and Student loans - \$130.00. (Appellants' Testimony and Exhibit 3). Additionally, the Appellants incurred unanticipated expenses of \$4,000.00 in 2020 to replace an underground power line on their property that was not located on a public way and caused them to lose electricity for several days. (Appellant's Testimony, which I credit).
16. The Appellants' successfully requested that their bank forbear on collection of their mortgage payments for six months. Appellant Spouse also successfully arranged for deferment of their student loan payments during 2020.
17. The Primary taxpayer continues to receive MCC-compliant insurance through their employer during 2021. Appellant Spouse and their children have been approved for health insurance during 2021.³ (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

² Appellant Spouse was advised if they communicated with the Health Connector to inform the Connector about their receipt of unemployment benefits and to check about any possible adjustments to applications and eligibility for subsidized insurance through the Connector.

³ Appellant Spouse was further advised that the Connector's Open Enrollment period runs from November 1, 2021 through January 23, 2022.

months that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See M.G.L. c. 111M, sec. 2(b) and for Tax Year 2011, Administrative Bulletin 03-10: M.G.L. c. 111M and M.G.L. c. 176Q as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of financial hardship. See 956 CMR 6.08.

The Appellant checked the box on the Statement of Grounds for Appeal saying that they received a utility shutoff notice during 2020 and could not afford the cost of health insurance without depriving their family of necessary living expenses. (Exhibit 3 and Appellant's Testimony).

The Primary Taxpayer had MCC-compliant health insurance coverage during twelve (12) months of tax year 2020 according to Appeal Information from Schedule HC for 2020 and was not assessed a tax penalty according to Appeal Information from Schedule HC for 2020. (Exhibit 3).

Appellant Spouse did not have health insurance coverage during any months of tax year 2020 according to Appeal Information from Schedule HC for 2020 and was assessed a tax penalty of twelve (12) months according to Appeal Case Information from Schedule HC for 2020. (Exhibit 3).

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 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

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

In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two (2) dependents claimed, with an annual adjusted gross income of \$92,071.00, could afford to pay \$613.81 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 40, living in Middlesex County, could have purchased private market health insurance for \$793.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Primary Taxpayer in 2020.

The Primary Taxpayer's employer offered health insurance to the Primary Taxpayer but not to the Appellant Spouse and their two young children. (Appellant Spouse's Testimony, which I

credit). Thus, employer-sponsored insurance was not available to the Appellant Spouse and their two dependents.

The Appellants were not income-eligible for government-subsidized ConnectorCare coverage in 2020 because their Federal Adjusted Gross Income of \$92,071.00 was more than the Federal poverty level of \$77,250.00 for a family of four. (Schedule HC for 2020).

The Primary Taxpayer's work hours were reduced significantly during 2020 because of the pandemic, thus causing a reduction in income. (Appellant Spouse's Testimony and Exhibit 3). The Appellant Spouse was a small business owner. When the pandemic hit, they lost virtually all their bookings and, therefore, all their income from February through December 2020. (Appellant Spouse's Testimony, which I credit).

The Appellant Spouse applied for unemployment benefits but their application was delayed for several months because of an identity fraud claim. They are still in the process of appealing their claim for unemployment benefits for 2021. (Appellant's Testimony, which I credit).

The Primary Taxpayer and Appellant Spouse have two young children who were attending school remotely during 2020. As a result, their internet, electricity, heat and other expenses increased substantially during 2020. (Appellant Spouse's Testimony).

Appellants' 2020 monthly living expenses of \$5,838.33 included: Mortgage - \$2,500.00, Heat - \$333.33, Gas - \$25.00, Car payments (2 cars) -\$1,000.00, Car insurance - \$200.00, Electricity - \$350.00, Heat/hot water - \$100.00, Student loans - \$130.00, Phone - \$300.00, Cable/internet - \$400.00, Credit card debt - \$500.00, and Student loans - \$130.00. (Appellants' Testimony and Exhibit 3). Additionally, the Appellants incurred unanticipated expenses of \$4,000.00 in 2020 to replace an underground power line on their property that was not located on a public way. (Appellant's Testimony, which I credit).

The Appellants' successfully requested that their bank forbear on collection of their mortgage payments for six months. Appellant Spouse also successfully arranged for deferment of their student loan payments during 2020.

The Primary taxpayer continues to receive MCC-compliant insurance through their employer during 2021. Appellant Spouse and their children have been approved for health insurance for 2021. (Appellant's Testimony).

Based on the totality of the circumstances and evidence contained in the administrative record, I conclude that Appellants have demonstrated that they would have experienced financial hardship if they had paid for health insurance for Appellant Spouse and their two young children during 2020. 956 CMR 6.08 (1) and (3). Appellant Spouse and their two dependents have been approved for insurance during 2021. (Appellant Spouse's Testimony, which I credit).

For all these reasons, Appellant Spouse's twelve-month penalty is waived entirely.

The Appellants should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellants 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 that is MCC-compliant in Massachusetts, as the individual mandate requires.

PENALTY ASSESSED

Appellant Primary Taxpayer:

No. of Months Appealed: 0 No. of Months Assessed: 0

Appellant Spouse:

No. of Months Appealed: 12 No. of Months Assessed: 0

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA20-597

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: October 15, 2021
Decision Date: November 16, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 15, 2021.

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

Exhibit 1	Hearing Notice dated September 2, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal, Letter and Documents	5 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 26 years old in June 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Suffolk County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$51,147.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during five (5) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a two (2)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$51,147.00, could afford to pay \$340.98 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Suffolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Appellant received employer-sponsored insurance (ESI) from January through July 2020. They became self-employed in August 2020 and did not have any ESI from August through December 2020. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$51,147.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant left their employer in August 2020 and became self-employed because the employer required Appellant to work in the office, which Appellant did not feel comfortable doing for health safety reasons during the pandemic. Thus, they became a self-employed real estate agent. (Appellant's Testimony).
11. Prior to 2020, the Appellant received health insurance through their parents' plan. (Appellant's Testimony).

12. Appellant was not familiar with the private health insurance marketplace or how to secure private insurance . (Appellant’s Testimony).
13. Appellant similarly did not understand how the Heath Connector marketplace worked, though they did begin an application and spent many hours calling and trying to communicate with the Health Connector on line. (Appellant’s Testimony, which I credit, and Exhibit 3). Among other issues, Appellant could not estimate their anticipated income because they were newly self-employed in a challenging real estate market because of the pandemic. Consequently, they did not succeed in obtaining health insurance for the months of September through December 2020. (Appellant’s Testimony and Exhibit 4).
14. Appellant’s 2020 monthly living expenses of \$4,174.00 included: Mortgage - \$2,952.00, Heat - \$200.00, Car insurance - \$108.00, Gas - \$180.00, Electricity - \$150.00, Phone - \$99.00, Food - \$250.00, Internet - \$45.00, Student loans - \$90.00 and Water bill - \$100.00 (Appellants’ Testimony and Exhibit 3).
15. The Appellant currently has health insurance. (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 checked the box on the Statement of Grounds for Appeal stating “Other” and referred to their supporting letter. (Exhibit 3 and Appellant’s Testimony).

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

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$51,147.00, could afford to pay \$340.98 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Suffolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.

Appellant received employer-sponsored insurance (ESI) from January through July 2020. They became self-employed in August 2020 and did not have any ESI from August through December 2020. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$51,147.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant left their employer in August 2020 and became self-employed because the employer required Appellant to work in the office, which Appellant did not feel safe doing because of the pandemic.

Prior to 2020, the Appellant received health insurance through their parents' plan. (Appellant's Testimony). Appellant was not familiar with the private health insurance marketplace or how to secure private insurance. (Appellant's Testimony). Appellant similarly did not understand how the Health Connector marketplace worked, though they did begin an application and spent many hours calling and trying to communicate with the Connector on-line. (Appellant's Testimony, which I credit, and Exhibit 3). Among other issues, Appellant could not estimate their anticipated income because they were newly self-employed in a difficult real estate market because of the pandemic. Consequently, they did not succeed in obtaining health insurance for the months of September through December 2020. (Appellant's Testimony and Exhibit 4).

Appellant's 2020 monthly living expenses of \$4,174.00 included: Mortgage - \$2,952.00, Heat - \$200.00, Car insurance - \$108.00, Gas - \$180.00, Electricity - \$150.00, Phone - \$99.00, Food - \$250.00, Internet - \$45.00, Student loans - \$90.00 and Water bill - \$100.00 (Appellants' Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the pandemic created an unanticipated hardship for the Appellant, within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. The Appellant currently has MCC-compliant health insurance coverage. For all these reasons, payment for the two (2)-month penalty assessment for the Appellant is waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. The Appellant should not assume that a similar determination

will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.²

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

² The Appellant was advised that the Connector’s Open Enrollment period extends from November 1, 2021 through January 23, 2022.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-598

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 15, 2021

Decision Date: November 16, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 15, 2021.

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

Exhibit 1	Hearing Notice dated September 2, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal, Letter	4 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 26 years old in January 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Norfolk County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$46,046.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$46,046.00, could afford to pay \$291.62 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Norfolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Appellant was not offered any employer-sponsored insurance (ESI) during 2020. (Appellant's Testimony).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$46,046.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. Appellant was employed as an independent contractor doing sales work in the film and television industry during 2020. (Appellant's Testimony and Exhibit 3).
11. Appellant turned 26 years old on January 12, 2020 and had to find their own health insurance coverage for the first time given that ESI was not available to them. (Appellant's Testimony and Exhibit 3). However, the timing coincided with the beginning of the Covid-19 pandemic. (Appellant's Testimony and Exhibit 3).

12. Appellant was laid off from their independent contractor job because of the pandemic. They received a small amount of unemployment benefits for some period of time.² (Appellant’s Testimony and Exhibit 3).
13. Appellant tried to find private health insurance coverage although they were not familiar with how that market worked. They testified that they received monthly premium quotes of \$600.00 to \$800.00, which was not affordable to them. (Appellant’s Testimony and Exhibit 3).
14. Appellant stated that they did not know about the existence of the Health Connector and the availability of unsubsidized insurance through the Connector. (Appellant’s Testimony).
15. The Appellant found work again toward the end of 2020 and was just beginning to regain their financial footing. However, they recently became unemployed again.³ (Appellant’s Testimony and Exhibit 3).
16. The Appellant currently has health insurance through Tufts. (Appellant’s Testimony and Exhibit 3).
17. Appellant’s 2020 monthly living expenses of \$3,200.00. included: Rent - \$400.00, Car insurance - \$300.00, Car payments - \$700.00, Gas - \$350.00, Phone - \$99.00, Food - \$450.00, and Student loans - \$1,000.00. (Appellants’ Testimony and Exhibit 3).
18. The Appellant currently has Tufts health insurance. (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.

² Appellant was advised to inform the Health Connector about their receipt of unemployment benefits and to check about any possible adjustments to applications and eligibility for possible subsidized insurance if they seek health insurance through the Connector.

³ Appellant was advised that the Connector’s Open Enrollment period runs from November 1, 2021 through January 23, 2022.

The Appellant checked the box on the Statement of Grounds for Appeal stating they experienced a natural disaster during 2020. (Exhibit 3 and Appellant's Testimony).

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

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$46,046.00, could afford to pay \$291.62 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 26, living in Norfolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.

Appellant was not offered any employer-sponsored insurance (ESI) during 2020. (Appellant's Testimony).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$46,046.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

Appellant was employed as an independent contractor doing sales work in the film and television industry during 2020. (Appellant's Testimony and Exhibit 3). Appellant turned 26 years old on January 12, 2020 and had to find their own health insurance coverage for the first time given that ESI was not available to them. (Appellant's Testimony and Exhibit 3). However, the timing coincided with the beginning of the Covid-19 pandemic. (Appellant's Testimony and Exhibit 3).

Appellant was laid off from their independent contractor job because of the pandemic. They received a small amount of unemployment benefits for some period of time. (Appellant's Testimony and Exhibit 3).

Appellant tried to find private health insurance coverage, although they were not familiar with how that market worked. They testified that they received monthly premium quotes of \$600.00 to \$800.00, which was not affordable to them. (Appellant's Testimony and Exhibit 3). Appellant testified that they did not know about the existence of the Health Connector and the availability of unsubsidized insurance through the Connector. (Appellant's Testimony).

The Appellant found work again toward the end of 2020 and was just beginning to regain their financial footing. However, they recently became unemployed again. (Appellant's Testimony and Exhibit 3).

The Appellant currently has health insurance through Tufts. (Appellant's Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the pandemic created an unanticipated hardship for the Appellant, within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. The Appellant currently has MCC-compliant health insurance coverage. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-599

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: October 15, 2021
Decision Date: November 16, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 15, 2021.

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

Exhibit 1	Hearing Notice dated September 2, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal, Letter and Documents	11 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 24 years old in July 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Middlesex County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$26,731.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,731.00, could afford to pay \$93.55 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24, living in Middlesex County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Appellant was not offered any employer-sponsored insurance (ESI) during 2020. (Appellant's Testimony and Exhibit 3).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$26,731.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was a dependent during 2019, when they lived out-of-state and graduated from college that year. (Appellant's Testimony and Exhibit 2).
11. They moved to Massachusetts during 2020 and were newly-employed as a probationary employee from January through March 2020. (Appellant's Testimony and Exhibit 2). They were not offered health insurance during their probationary employment and were laid off at the end of their probationary period because of the pandemic. (Appellant's Testimony and Exhibit 2).

12. The Appellant was unemployed from March until August 2020. They did not qualify for unemployment benefits because they did not have sufficient work history. (Appellant's Testimony and Exhibit 2).
13. The Appellant began working remotely from Massachusetts for an out-of-state company in August 2020. They were not offered ESI in their new job. (Appellant's Testimony and Exhibit 2).
14. As a recent college graduate and new Massachusetts resident, the Appellant did not understand the Massachusetts individual mandate or how the Health Connector eligibility and marketplace works. (Appellant's Testimony and Exhibit 2).
15. Appellant's 2020 monthly living expenses of \$1,725.00. included: Rent - \$1,100.00, Heat - \$65.00, Electricity - \$80.00, Wifi - \$30.00, Food - \$150.00, Transportation - \$240.00, and Credit card debt - \$60.00. (Appellants' Testimony and Exhibit 3).
16. The Appellant does not currently have MCC-compliant health insurance.²

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the boxes on the Statement of Grounds for Appeal stating that the expense of purchasing health insurance would have caused a deprivation of food and other living necessities and "Other" circumstances. (Exhibit 3 and Appellant's Testimony).

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

² Appellant was advised that the Connector's Open Enrollment period runs from November 1, 2021 through January 23, 2022.

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$26,731.00, could afford to pay \$93.55 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 24, living in Middlesex County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Appellant was not offered any employer-sponsored insurance (ESI) during 2020. (Appellant's Testimony and Exhibit 3).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$26,731.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was a dependent during 2019, when they lived out-of-state and graduated from college that year. (Appellant's Testimony and Exhibit 2). They moved to Massachusetts during 2020 and were newly-employed as a probationary employee from January through March 2020. (Appellant's Testimony and Exhibit 2). They were not offered health insurance during their probationary employment and were laid off at the end of their probationary period because of the Covid-19 pandemic. (Appellant's Testimony and Exhibit 2).

The Appellant was unemployed from March until August 2020. They did not qualify for unemployment benefits because they did not have sufficient work history. (Appellant's Testimony and Exhibit 2).

The Appellant began working remotely from Massachusetts for an out-of-state company in August 2020. They were not offered ESI. (Appellant's Testimony and Exhibit 2). As a recent college graduate and new Massachusetts resident, the Appellant did not understand the Massachusetts individual mandate or how the Health Connector eligibility and marketplace works. (Appellant's Testimony and Exhibit 2).

Appellant's 2020 monthly living expenses of \$1,725.00. included: Rent - \$1,100.00, Heat - \$65.00, Electricity - \$80.00, Wifi - \$30.00, Food - \$150.00, Transportation - \$240.00, and Credit card debt - \$60.00. (Appellants' Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the pandemic created an unanticipated hardship for the Appellant, within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-642

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 27, 2021

Decision Date: November 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 27, 2021.

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

Exhibit 1	Hearing Notice dated September 9, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal and Documents Baystate Health and NE Orthopedic	7 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 34 years old in April 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Hampden County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$23,154.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during nine (9) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a six (6)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,154.00, could afford to pay \$55.96 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34, living in Hampden County, could have purchased private market health insurance for \$258.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Appellant received employer-sponsored insurance (ESI) during the first two months of 2020. Appellant then began a new job and was not offered employer-sponsored insurance during their probationary period and the remainder of 2020. (Appellant's Testimony and Exhibit 3).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$23,154.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was a dependent during 2019, when they lived out-of-state and graduated from college that year. (Appellant's Testimony and Exhibit 2).
11. The Appellant began work in a new job as a probationary employee in 2020 just as the Covid-19 pandemic began. They had to miss work because of an on-the-job injury and eventually required surgery. They received worker's compensation benefits during this time. (Appellant's Testimony and Exhibit 2). (Appellant's Testimony and Exhibit 3).

12. Because of their absence from work and their subsequent return on a part-time basis, Appellant was unable to complete their probationary period and qualify for ESI until December 2020. (Appellant's Testimony and Exhibit 3).
13. The Appellant had moved to Massachusetts in late 2019 and was unfamiliar with the individual mandate and the availability of subsidized and unsubsidized insurance through the Health Connector. (Appellant's Testimony).
14. Appellant's 2020 monthly living expenses of \$1,405.00 included: Rent - \$500.00, Food - \$150.00, Phone - \$65.00, Transportation - \$240.00, Credit card debt - \$250.00, and Gas - \$200.00, (Appellants' Testimony and Exhibit 3).
15. The Appellant is currently unemployed and receives MassHealth insurance.²

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal stating that a personal disaster (on-the-job injury) and natural disaster (Covid-19) caused them personal damage. (Exhibit 3 and Appellant's Testimony).

To determine if the six (6)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

² Appellant was advised that the Connector's Open Enrollment period runs from November 1, 2021 through January 23, 2022.

Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$23,154.00, could afford to pay \$55.96 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 34, living in Hampden County, could have purchased private market health insurance for \$258.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Appellant received employer-sponsored insurance (ESI) during the first two months of 2020. Appellant then began a new job and was not offered employer-sponsored insurance during their probationary period and the remainder of 2020. (Appellant's Testimony and Exhibit 3).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$23,154.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was a dependent during 2019, when they lived out-of-state and graduated from college that year. (Appellant's Testimony and Exhibit 2).

The Appellant began work in a new job as a probationary employee in 2020 just as the Covid-19 pandemic began. They had to miss work because of an on-the-job injury and eventually required surgery. They received worker's compensation benefits during this time. (Appellant's Testimony and Exhibit 2). (Appellant's Testimony and Exhibit 3).

Because of their absence from work and their subsequent return on a part-time basis, Appellant was unable to complete their probationary period and qualify for ESI until December 2020. (Appellant's Testimony and Exhibit 3).

The Appellant had moved to Massachusetts in late 2019 and was unfamiliar with the individual mandate and the availability of subsidized and unsubsidized insurance through the Health Connector. (Appellant's Testimony). The Appellant is currently unemployed and receives MassHealth insurance.

Appellant's 2020 monthly living expenses of \$1,405.00 included: Rent - \$500.00, Food - \$150.00, Phone - \$65.00, Transportation - \$240.00, Credit card debt - \$250.00, and Gas - \$200.00, (Appellants' Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the Appellant's injury and surgery and the pandemic created unanticipated hardships for the Appellant, within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the six (6)-month penalty assessment for the Appellant is waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. 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: 6 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-642

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 27, 2021

Decision Date: November 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 27, 2021.

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

Exhibit 1	Hearing Notice dated September 9, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal and Documents Baystate Health and NE Orthopedic	3 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 31 years old in April 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Norfolk County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$86,890.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during five (5) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a two (2)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$86,890.00, could afford to pay \$579.26 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 31, living in Norfolk County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Appellant received employer-sponsored insurance (ESI) from January through July 2020, until they were laid off from their job because of the Covid-19 pandemic. (Appellant's Testimony and Exhibit 3).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$86,890.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. After Appellant was laid off in July 2020, they became employed with a different employer in September 2020 but was not offered health insurance during a 90-day probationary period. They were laid off after the probationary period because the office did not have enough patients due to the Covid-19 pandemic. (Appellant's Testimony).
11. The Appellant moved out of state in approximately April 2021, where they are currently employed.

12. Appellant's 2020 monthly living expenses of \$1,520.00 included: Mortgage payment - \$800.00, Food - \$150.00, heat - \$30.00, Electricity - \$200.00, Phone - \$120.00, Cable/internet - \$120.00, and Gasoline - \$100.00 (Appellants' Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not check a box on the Statement of Grounds for Appeal but rather hand-wrote a note stating that they had health insurance throughout most of the year until being laid off because of the Covid-19 pandemic. (Exhibit 3 and Appellant's Testimony).

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

I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

After Appellant was laid off in July 2020 because of the pandemic, they became employed with a different employer in September 2020 but was not offered health insurance during a 90-day probationary period. They were laid off after the probationary period because the office did not have enough patients due to the Covid-19 pandemic. (Appellant's Testimony).

Appellant's 2020 monthly living expenses of \$1,520.00 included: Mortgage payment - \$800.00, Food - \$150.00, heat - \$30.00, Electricity - \$200.00, Phone - \$120.00, Cable/internet - \$120.00, and Gasoline - \$100.00 (Appellants' Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the Appellant experienced unanticipated hardships in 2020

because of the pandemic, within the meaning of 956 CMR 6.08 (1) and (3). For all these reasons, payment for the two (2)-month penalty assessment for the Appellant is waived entirely.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-644

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 27, 2021

Decision Date: November 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on October 27, 2021.

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

Exhibit 1	Hearing Notice dated September 9, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal and and Letter	3 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 44 years old in July 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Bristol County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$53,723.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$53,723.00, could afford to pay \$358.15 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 44, living in Bristol County, could have purchased private market health insurance for \$316.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.
8. Appellant was not offered employer-sponsored insurance during 2020. (Appellant's Testimony and Exhibit 3).
9. The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$53,723.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant began a new job with a contracting company at the end of 2019. Soon thereafter in 2020, the company was shut down because of the Covid-19 pandemic and the Appellant was laid off. By the time the Appellant was employed again, they had missed the open enrollment period. (Appellant's Testimony and Exhibit 3).
11. The Appellant is in the process of looking into health insurance options because their company's open enrollment period is not until August or September 2022.² They did not

² Appellant was advised that the Connector's Open Enrollment period runs from November 1, 2021 through January 23, 2022 and was encouraged to explore this option.

believe they could afford insurance previously because of the unpredictability of their income given the pandemic. (Appellant’s Testimony and Exhibit 3).

12. Appellant’s 2020 monthly living expenses of \$2,397.00 included: Rent - \$910.00, Heat - \$80.00, Electricity - \$100.00, Car insurance - \$277.00, Car payments - \$200.00, Food - \$400.00, Phone - \$30.00, and Gas - \$400.00 (Appellants’ Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal marked Other and explained in a letter that they had been laid off because of the pandemic and missed their company’s open enrollment period. (Exhibit 3 and Appellant’s Testimony).

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$53,723.00, could afford to pay \$358.15 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 44, living in Bristol County, could have purchased private market health insurance for \$316.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was affordable for the Appellant in 2020.

Appellant was not offered employer-sponsored insurance during 2020. (Appellant’s Testimony and Exhibit 3).

The Appellant was not income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$53,723.00 was more than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant’s Testimony and Exhibit 2).

The Appellant began a new job with a contracting company at the end of 2019. Soon thereafter in 2020, the company was shut down because of the Covid-19 pandemic and the Appellant was laid off. By the time the Appellant was employed again, they had missed the open enrollment period. (Appellant's Testimony and Exhibit 3).

The Appellant is in the process of looking into health insurance options because their company's open enrollment period is not until August or September 2022. They did not believe they could afford insurance previously because of the unpredictability of their income given the pandemic. (Appellant's Testimony and Exhibit 3).

Appellant's 2020 monthly living expenses of \$2,397.00 included: Rent - \$910.00, Heat - \$80.00, Electricity - \$100.00, Car insurance - \$277.00, Car payments - \$200.00, Food - \$400.00, Phone - \$30.00, and Gas - \$400.00 (Appellants' Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that the Appellant experienced hardship within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-757

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 5, 2021

Decision Date: November 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 (3 pages); and
3. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 6 month penalty for 2020. The basis for the penalty was that the Appellant was insured for the months of January – March 2021 but not for the remainder of 2021 (April – December). Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. (The calculation is 12 months minus 3 months insured = 9 months uninsured minus 3-month administrative grace period = 6 penalty months.)
2. The Appellant filed a Massachusetts personal income tax return for 2020 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2020 was \$ 45,477. Exhibit 1.
3. The Appellant was 28 years old at the beginning of 2020 and resided in [name of city or town omitted] in Hampden County, Massachusetts. Exhibit 1.
4. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
5. The Appellant's 2020 AGI (\$45,477) was more than 300% of the federal poverty level (\$37,470 for a one person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance.
6. Based on DOR Table 3 the Appellant could afford to pay 7.60 % of her income -- or \$288 per month -- for health insurance coverage in 2020. (The calculation is 7.60% multiplied by \$45,477 AGI = \$3,456.25 per year divided by 12 months = \$288.02 per month.) This analysis is affected by the fact that the Appellant was employed for five months in 2020 (January – March and November – December) and was collecting unemployment insurance benefits for seven months (April – October).
7. Based on DOR Table 4 (Region 1) the Appellant could obtain individual health insurance coverage at her age (less than 30 years) and location for \$241 per month in 2020.
8. The Appellant was employed at the beginning of 2020, and she was enrolled in her employer's health insurance plan for the months of January, February, and March.

The Appellant was laid off on March 17, 2020, due to the new world-wide COVID-19 pandemic, and she lost her employer-sponsored health insurance at the end of March. Testimony and Exhibit 1.

9. The Appellant received unemployment insurance benefits for the months of April – October 2020, and she did not have health insurance coverage during these months. Testimony and Exhibit 1. During this period the Appellant’s mother died of COVID-19. The Appellant was not able to enter the hospital to be with her mother during her illness. Testimony.
10. The Appellant received a new job offer in the Fall. The employer delayed her start date to November 2, 2021. Testimony.
11. The Appellant enrolled in her new employer’s health plan. Because the employer had a 3 month enrollment period the Appellant did not have health insurance coverage for the months of November and December 2020. Testimony and Exhibit 1.
12. The Appellant had employer-sponsored health insurance again starting in 2021. Testimony.
13. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2020 Massachusetts income tax return.
14. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2020. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in

effect for 2020. (The DOR instructions are published online at <http://www.mass.gov/dor/2018ScheduleHCInstructions> and are also available in the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a 6 month tax penalty because the Appellant did not have health insurance coverage for the months of April through December after she was laid off due to the COVID-19 pandemic... See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The decision in this appeal centers on the advent of the coronavirus pandemic in early 2020.

At the beginning of 2020 the Appellant was employed and enrolled in her employer’s health plan. She was laid off from her job in mid-March due to the health threat imposed by COVID-19, which resulted in the termination of her employer-sponsored health insurance at the end of March 2020. The Appellant’s efforts to find a new job were successful in early November. She enrolled in her new employer’s health plan, with her new coverage taking effect in early 2021.

The Appellant collected unemployment insurance from April through October, the period between her two jobs. The Appellant was also uninsured in the months of November and December 2020 because her new employer had a three-month wait period before health insurance took effect, a matter over which the Appellant had no control.

After considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”).

PENALTY ASSESSED

Number of Months Appealed: 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA20-758

Appeal Decision: Appeal Approved -- 2020 tax penalty overturned.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 5, 2021

Decision Date: November 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

1. DOR Appeal Case Information from Schedule HC (1 page);
2. Appellant's Statement of Grounds for Appeal – 2020 (3 pages);
3. Appellant's Letter in Support of Appeal (1 page);
4. IRS Form 1095-B for 2020 (Employer No. 1) (1 page);
5. IRS Form 1095-B for 2020 (Employer No. 2) (1 page); and
6. Health Connector's Notice of Hearing (2 pages).

FINDINGS OF FACT

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

1. The Appellant appealed from the Department of Revenue's assessment of a 3 month penalty for 2020. The basis for the penalty, as set forth in Exhibit 1 prepared by the DOR, was that the Appellant was not insured for the months of January – April, was insured for the month of May, was not insured for the month of June, was insured for the month of July, and was not insured for the months of August – December 2020.
2. Based on the IRS Form 1095-B (Exhibit 5) prepared by the Appellant's final employer in 2020 (Employer No. 2), I find that the Appellant was also insured in the month of December 2020. Exhibit 5 is consistent with the Appellant's testimony at the appeals hearing and with Exhibit 3, her supporting letter that states that she was insured in 2020 for the months of "May, July, Dec." I find that the Appellant made an error when she self-prepared her 2020 tax return that omitted December as a month in which she was insured. See Exhibit 1.
3. I find that the penalty assessment is reduced from 3 months to 2 months when December is correctly reported as a month when the Appellant was insured. (The penalty calculation after the 3 month grace period is applied is: January = 1st penalty month, February – April = grace period, May = insured, June = grace period), July = insured, August – October = grace period, November = 2d penalty month, and December = insured.)
4. As set forth in more detail below I find that applying the Health Connector's financial hardship regulations to the evidence produced by the Appellant results in a waiver of the entire penalty assessed against the Appellant for 2020.
5. The Appellant filed a Massachusetts personal income tax return for 2020 as a Head of Household with one dependent. The Appellant's federal adjusted gross income (AGI) for 2020 was \$ 53,806. Exhibit 1.
6. The Appellant was 54 years old at the beginning of 2020 and resided in [name of city or town omitted] in Worcester County, Massachusetts. Exhibit 1.

7. The Appellant's AGI was more than 150% of the federal poverty level. On this basis I conclude that the Appellant was not automatically exempt from the assessment of a tax penalty in 2020. DOR Table 1.
8. The Appellant's 2020 AGI (\$53,806) was somewhat more than 300% of the federal poverty level (\$50,730 for a two person household). DOR Table 2. On this basis I infer that it is likely that the Appellant would not satisfy the financial eligibility requirements for government-subsidized health insurance. However, if I were to subtract the Appellant's retirement fund withdrawal from her AGI (see below) the Appellant's 2020 income would be less than 300% of the federal poverty level.
9. Based on DOR Table 3 the Appellant could afford to pay 7.45% of her income -- or \$334 per month -- for health insurance coverage in 2020. (The calculation is 7.45% multiplied by \$53,806 AGI = \$4,008.54 per year divided by 12 months = \$334.04 per month.)
10. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at her age and location for \$420 per month in 2020.
11. The Appellant is divorced with two sons. In 2020 her 16 year old son decided to live with the Appellant full-time, while her younger son continued to reside part-time with both the Appellant and his Father. The change in living arrangements increased the Appellant's household expenses, but she did not receive an increase in child support payments from the Father. The Father continued to provide health insurance coverage for both children. Testimony and Exhibit 3.
12. The Appellant had multiple jobs in 2020, as she sought to increase her income. In general, each job provided health insurance coverage that the Appellant enrolled in after an employer-imposed three-month waiting period. Testimony. See Exhibits 3, 4 and 5.
13. The Appellant caught COVID-19 in April 2020, at the beginning of the coronavirus pandemic. The Appellant was in bed at home for one month. She returned to work in May, when she was insured. Due to COVID's lingering effects the Appellant was not able to work in June, and she was not insured in June. The Appellant returned to work in July, when she again had health insurance coverage.

Testimony and Exhibit 3. The unusual pattern of health insurance coverage is supported by Exhibit 4, the IRS Form 1095-B prepared by Employer No. 1.

14. The Appellant started another new job in September 2020. After an employer—imposed 3 month waiting period (September, October and November), the Appellant was enrolled in her new employer’s health insurance plan starting in December 2020. Testimony and Exhibit 3. The Appellant’s testimony is supported by Exhibit 5, the IRS Form 1095-B prepared by Employer No. 2 that reports that the Appellant was insured in December 2020. The Appellant’s employment and health insurance at Employer No. 2 continued into 2021. Testimony and Exhibit 3.

15. In order to support her mortgage payments and other living expenses, including food and utility payments, the Appellant withdrew approximately \$10,000 from her tax-sheltered retirement plan. Testimony and Exhibit 3.

16. The Appellant has an estimated \$10,000 credit card balance. She had to replace her used car when it would not pass inspection. The Appellant is also paying off a \$2,000 bill for health care in prior years. Testimony.

17. Except as set forth in the foregoing findings of fact, I adopt the facts set forth in Exhibit 1 as my own findings of fact. Exhibit 1 is a computer printout prepared by the Massachusetts Department of Revenue (DOR) that extracts information submitted by the Appellant on Schedule HC as part of the Appellant’s 2020 Massachusetts income tax return.

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

the state income tax forms supplied to taxpayers. See also DOR Technical Information Release (TIR) 12-7: Individual Mandate Penalties for Tax Year 2020.)

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the state Department of Revenue's (DOR) assessment of a three-month tax penalty because the Appellant did not have health insurance coverage for parts of 2020. See Exhibits 1 and 2. The issue to be decided is whether the penalty should be waived, either in whole or in part.

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

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

The Health Connector's regulations also provide for a "hardship" appeal from the assessment of a penalty. 956 Code Mass. Regs. 6.07 and 6.08. The grounds for a hardship appeal are summarized in the Statement of Grounds for Appeal – 2020 that the Appellant signed and filed in this case. See Exhibit 2.

The first step to resolve this appeal is to reduce the tax penalty assessment from three months to two months. I find that the Appellant did have health insurance for the month of December 2020, but the Appellant failed to report the December coverage to

the DOR on her 2020 state income tax return. See Exhibit 1. The evidence of December coverage is reliable and persuasive, consisting of the Appellant's testimony and supporting letter (Exhibit 3) and, more importantly, by IRS Form 1095-B prepared by Employer No. 2 showing coverage by Blue Cross Blue Shield starting in December 2020. Exhibit 5. See Findings of Fact, Nos. 1 – 3, above.

The other evidence presented in this appeal established that the Appellant sustained a financial hardship in 2020, starting with the added expense resulting from her older son deciding to live with her full-time in 2020.

The Appellant held multiple jobs in 2020 as she sought to improve her financial situation. She lost income in April and again in June when she was ill with COVID-19. Her illness also caused her to lose health insurance coverage for June, as set forth in Exhibit 4, the IRS Form 1095-B prepared by Employer No 1 (insured in May and July but not June).

Although the Appellant had employer-sponsored health insurance in parts of 2020 the objective standards set forth in DOR Tables 3 and 4 indicate that she could not afford health insurance on her income: She could afford to pay only \$334 per month but individual coverage would cost \$420 per month at her age and location. See Findings of Fact, Nos. 8 - 10, above.

In addition to her COVID-19 illness, her son, and her repeated efforts to obtain employment with employer-sponsored health insurance, the most salient evidence of financial hardship is the Appellant's decision that she had to make a \$10,000 withdrawal from her retirement plan to support her current expenses. For this appeal the withdrawal had the effect of increasing her federal adjusted gross income (AGI) beyond what she was earning from her employment. For her future it exhausted resources that should be available after she retires from the workforce. See Findings of Fact, Nos. 8 and 15, above. The Appellant also had other major expenses that are summarized in Findings of Fact, No. 16, above.

In sum, after considering all the circumstances, I conclude that it is appropriate to waive the entire penalty assessed against the Appellant for 2020. See, e.g., 956 Code Mass. Regs. 6.08 (1) (e) (“[The Appellant] experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused [her] to experience a serious deprivation of food, shelter, clothing or other necessities.”). See my RECOMMENDATIONS below.

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

RECOMMENDATIONS. (1) The Health Connector is currently in an open enrollment period for health insurance plans that will take effect in January 2022. I do not know your current circumstances but if you are experiencing problems with health insurance I suggest that you submit an application to the Health Connector when you receive this Decision. At the very least that will give you objective evidence of your insurance situation if you find yourself in another appeal situation.

(2) The federal and state governments made a number of short-term financial adjustments due to the COVID-19 pandemic. Before this year ends I suggest that you research whether any changes were made that affect the withdrawal that you made from your tax sheltered retirement plan. I do not know if there are any such opportunities, but what I have in mind is a change in the IRS penalty for early withdrawal or the opportunity to repay the withdrawal to your retirement account so that it can continue to accrue tax

free for your retirement in future years. It might be worth borrowing money to repay your retirement account if a repayment is permitted.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-765

Appeal Decision: Appeal Approved
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 9, 2021
Decision Date: November 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 9, 2021.

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

Exhibit 1	Hearing Notice dated October 18, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal, Letter and Documents	3 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 23 years old in February 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Norfolk County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$34,047.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during twelve (12) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$34,047.00, could afford to pay \$141.86 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 23, living in Norfolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Appellant was offered employer-sponsored health insurance during 2020 from an arts non-profit organization for the lowest amount of about \$250.00 per month. This amount was more than Appellant could afford to pay. (Appellant's Testimony and Exhibit 3).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$34,047.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was employed full-time in 2020 by a non-profit arts organization earning a minimum wage of \$12.75 per hour. Appellant also was employed in a secondary job in a restaurant to supplement their minimum wage income. Appellant was laid off from their secondary job in March 2020. (Appellant's Testimony and Exhibit 3).
11. Without their second job, the Appellant was unable to afford health insurance offered by their arts employer, which cost about \$250.00 per month. (Appellant's Testimony, which I credit, and Exhibit 3).

12. In early July 2020, Appellant's full-time job with the arts organization was reduced to part-time at 15.5 hours per week. (Appellant's Testimony and Exhibit 3).
13. The Appellant eventually found a second part-time job but was not eligible for health insurance through that job given its part-time nature. (Appellant's Testimony and Exhibit 3).
14. The Appellant, a recent college graduate, was unaware of the possibility of ConnectorCare coverage through the Health Connector. (Appellant's Testimony).
15. The Appellant's rent was increased in September 2020, adding financial strain. (Appellant's Testimony and Exhibit 3).
16. In January 2021, the Appellant's arts organization employer was able to restore Appellant's status to a full-time employee with higher income and health insurance coverage. (Appellant's Testimony and Exhibit 3).
17. Appellant's 2020 monthly living expenses of \$1,634.48 included: Rent - \$903.33, Gas - \$45.00, Electricity - \$26.00, , Food - \$200.00, Phone - \$82.00, Internet - \$28.00, T-Pass - \$90.00 (3mos.), Private student loan - \$147.15, and Public student loan - \$113.00 (Appellants' Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal that during 2020 the expense of purchasing health insurance would have cause a serious deprivation of food and other necessities. (Exhibit 3 and Appellant's Testimony).

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

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$34,047.00, could afford to pay \$141.86 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 23, living in Norfolk County, could have purchased private market health insurance for \$269.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Appellant was offered employer-sponsored health insurance during 2020 from an arts non-profit organization for the lowest amount of about \$250.00 per month. That amount was more than Appellant could afford to pay. (Appellant's Testimony and Exhibit 3).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$34,047.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).

The Appellant was employed full-time in 2020 by a non-profit arts organization earning a minimum wage of \$12.75 per hour. Appellant also was employed in a secondary job in a restaurant to supplement their minimum wage income. Appellant was laid off from their secondary job in March 2020. (Appellant's Testimony and Exhibit 3).

Without income from the second job, the Appellant was unable to afford health insurance offered by their arts employer, which cost about \$250.00 per month. (Appellant's Testimony, which I credit, and Exhibit 3).

In early July 2020, Appellant's full-time job with the arts organization was reduced to part-time at 15.5 hours per week. (Appellant's Testimony and Exhibit 3).

The Appellant eventually found a second part-time job but was not eligible for health insurance through that job given its part-time nature. (Appellant's Testimony and Exhibit 3).

The Appellant was unaware of the possibility of ConnectorCare coverage through the Health Connector. (Appellant's Testimony).

The Appellant's rent was increased in September 2020, adding financial strain. (Appellant's Testimony and Exhibit 3).

In January 2021, the Appellant's arts organization employer was able to return Appellant's status to a full-time employee with higher income and health insurance coverage. (Appellant's Testimony and Exhibit 3).

Appellant's 2020 monthly living expenses of \$1,634.48 included: Rent - \$903.33, Gas - \$45.00, Electricity - \$26.00, , Food - \$200.00, Phone - \$82.00, Internet - \$28.00, T-Pass - \$90.00 (3mos.), Private student loan - \$147.15, and Public student loan - \$113.00 (Appellants' Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the twelve (12)-month penalty assessment for the Appellant is waived entirely.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-768

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 9, 2021

Decision Date: December 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on November 9, 2021.

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

Exhibit 1	Hearing Notice dated October 18, 2021	2 pages
Exhibit 2	Appeal Case Info. fr. Sch. HC 2020	1 page
Exhibit 3	Statement of Grounds for Appeal and Supporting Documents	8 pages

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 33 years old in January 2020. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).

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

2. The Appellant lived in Bristol County, MA in 2020. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2020 was \$32,461.00 as shown on Schedule HC for 2020. (Exhibit 2).
4. The Appellant did not have health insurance that met Minimum Creditable Coverage (MCC) during nine (9) months of tax year 2020 according to Appeal Case Information from Schedule HC for 2020. (Exhibit 2).
5. The Appellant has been assessed a six (6)-month tax penalty for 2020, which they have appealed. (Exhibits 2 & 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
7. In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$32,461.00, could afford to pay \$135.25 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 33, living in Bristol County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.
8. Employer-sponsored health insurance was not available to the Appellant during 2020. (Appellant's Testimony and Exhibit 3).
9. The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$32,461.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant's Testimony and Exhibit 2).
10. The Appellant was unemployed from January through June 2020. They did not receive unemployment income for approximately the first 6 to 8 weeks of 2020. (Appellant's Testimony and Exhibit 3).
11. Appellant was placed by a staffing agency in two different temporary seasonal jobs, one from July through September 2020 and the second from October through December 2020. (Appellant's Testimony and Exhibit 3).

12. The Appellant did not learn until late fall 2020 about MassHealth and Connector insurance options. Thus, they did not have MCC-compliant insurance coverage until October 2020 through December 2020. (Appellant's Testimony and Exhibit 3).
13. The Appellant currently has MassHealth insurance coverage.
14. Appellant's 2020 monthly living expenses of \$1,285.00 included: Rent - \$400.00, Gas - \$250.00, Phone - \$45.00, Internet - \$65.00, Food - \$450.00, and Pets - \$75.00. (Appellants' Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant checked the box on the Statement of Grounds for Appeal that during 2020 the expense of purchasing health insurance would have cause a serious deprivation of food and other necessities. (Exhibit 3 and Appellant's Testimony).

To determine if the six (6)-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2020, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$32,461.00, could afford to pay \$135.25 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 33, living in Bristol County, could have purchased private market health insurance for \$288.00 per month. (Table 4, Schedule HC for 2020). Thus, private insurance was not affordable for the Appellant in 2020.

Employer-sponsored health insurance was not available to the Appellant during 2020. (Appellant's Testimony and Exhibit 3).

The Appellant was income-eligible for ConnectorCare coverage in 2020 because their adjusted gross income of \$32,461.00 was less than 300% of the Federal poverty level, which was \$37,470.00 in 2020 (Schedule HC, Table 2). (Appellant’s Testimony and Exhibit 2).

The Appellant was unemployed from January through June 2020. They did not receive unemployment income for approximately the first 6 to 8 weeks of 2020. (Appellant’s Testimony and Exhibit 3).

Appellant was placed by a staffing agency in two different temporary seasonal jobs, one from July through September 2020 and the second from October through December 2020. (Appellant’s Testimony and Exhibit 3).

The Appellant did not learn until late fall 2020 about MassHealth and Connector insurance options. Thus, they did not have MCC-compliant insurance coverage until October 2020 through December 2020. (Appellant’s Testimony and Exhibit 3).

The Appellant currently has MassHealth insurance coverage.

Appellant’s 2020 monthly living expenses of \$1,285.00 included: Rent - \$400.00, Gas - \$250.00, Phone - \$45.00, Internet - \$65.00, Food - \$450.00, and Pets - \$75.00. (Appellants’ Testimony and Exhibit 3).

Based on all the credible evidence contained in this administrative record and the totality of the circumstances, I conclude that during 2020 the Appellant experienced hardship within the meaning of 956 CMR 6.08 (1) and (3), which they could not have predicted. For all these reasons, payment for the six (6)-month penalty assessment for the Appellant is waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2020. 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: 6 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-949

Appeal Decision

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: PA 20-711

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 9, 2021

Decision Date: November 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 9, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 40 years old at the end of 2020.
2. During 2020, Appellant lived in Essex County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$55,701. See Exhibit 2.
5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he had health insurance meeting minimum creditable coverage

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

(MCC) standards in January 2020, but did not have such health insurance for the remaining 11 months of 2020. Exhibit 2.

6. At the start of 2020, Appellant was working at a job that provided him with health insurance and he was enrolled in that insurance. However, he was laid off in January. After that, he was unemployed for the remainder of the year.
7. Appellant received unemployment benefits during 2020. The income he reported on his 2020 tax returns consisted of the salary that he received during the time he was working, plus the severance pay that he was given, and the unemployment benefits.
8. During the period when he was unemployed, Appellant experienced anxiety over his financial situation and had trouble meeting his monthly expenses. He believed that health insurance would be too expensive for him.
9. During the year, Appellant's daughter was born. Appellant did not take that child as a dependent on his taxes. However, he contributed to the child's support. He estimated that he contributed between \$300-400 a month to help with the child's expenses.
10. Appellant was unemployed and uninsured as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

According to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector's "Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00", which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant's case, he was without insurance for eleven months in 2020. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only eight months.

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

During the 11 months that he was uninsured in 2020, Appellant was unemployed. Therefore, he did not have access to employment-based insurance during that period of time.

Further, Appellant was not eligible for government-subsidized insurance. His annual income in 2020 of \$55,701 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care. 956 CMR 12.04 (Connector Care eligibility requirements.)

However, Appellant could have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$55,701 for a tax household of one person was deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$4,456 annually or \$371 a month. During 2020, a person like Appellant who lived in Essex County and was 40 years of age could have obtained insurance for a premium of \$316 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant was experiencing unemployment throughout 2020. For the time that he was uninsured, he was living solely on his unemployment benefits. Thus, to use his annual income as a basis for calculating what he could afford for health insurance somewhat overstates the amount he could afford because the annual income figure includes salary earned while he was working or a short period of severance paid to him after the lay-off. Further, during 2020, Appellant experienced the birth of a child. This created a new expense because Appellant was trying to provide some support to the child and her mother after the birth. The amount he states that he paid in support is almost as much as the amount that he was deemed able to afford for health insurance.

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

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-713

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 9, 2021

Decision Date: November 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 9, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (3 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (5 pages)

FINDINGS OF FACT

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

1. Appellant was 30 years old at the end of 2020.
2. During 2020, Appellant lived in Essex County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$32,471. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
6. At the start of 2020, Appellant was out of work because he had been laid off from a job in November 2019. He expected to be offered a position shortly; however, in February, the Coronavirus pandemic occurred and the new job did not materialize.
7. Appellant received unemployment insurance benefits during the early part of 2020. During the year, he obtained full-time contract employment through a staffing agency.
8. The staffing agency offered Appellant health insurance, but it was not affordable to him, particularly in light of the fact that he was on a temporary contract.
9. At the start of 2020, Appellant was living in his family home. However, that home was being sold and he was required to save money to obtain an apartment on his own.
10. Appellant did not apply for health insurance through the Health Connector's Connector Care program because he did not think he would be eligible.
11. Appellant is a citizen and was a citizen in 2020.
12. Appellant was still working for a staffing agency on a contract basis at the time of the hearing. He was still uninsured.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2020, Appellant was either unemployed or working for a staffing agency. The staffing agency offered him insurance, but it was unaffordable to him, given his salary. Therefore, he did not have access to employment-based insurance during that year.

Further, Appellant could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$32,471 for a tax household of one person was deemed able to afford 5 percent of income for health insurance. (I obtain

that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$1,623 annually or \$135 a month. During 2020, a person like Appellant who lived in Essex County and was 30 years of age would have had to pay at least \$269 a month as a premium for health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

However, Appellant could have obtained government-subsidized insurance, which would have been affordable. His annual income in 2020 of \$32,471 was below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet other eligibility criteria such as citizenship or legal permanent resident status and lack of access to affordable employer sponsored insurance. 956 CMR 12.04 (Connector Care eligibility requirements.) Based on Appellant's testimony, I conclude that he would have met those requirements.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant's income in 2020 was uncertain. He was unemployed for a period of time, and then working on a temporary contract. He was unaware that he could obtain health insurance through the Health Connector, because earlier he had obtained health insurance through employment. He was also concerned about his finances because he needed to save money in order to move into his own apartment. Based on the foregoing, I exercise my discretion to waive the penalty against Appellant in its entirety.

Appellant remained uninsured as of the date of the hearing. As a result, he may be subject to the individual mandate penalty for 2021 as well. Appellant was urged to apply for health insurance through the Health Connector to determine if he would qualify for financial assistance. An application can be filled through the Health Connector's website at www.mahealthconnector.org or by calling 1-877-623-6765.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-790

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 16, 2021

Decision Date: November 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 16, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (3 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (w/ attachments) (11 pages)

FINDINGS OF FACT

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

1. Appellant was 29 years old at the end of 2020.
2. During 2020, Appellant lived in Plymouth County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$71,500. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
6. Appellant operated his own business in 2020. The income he reported on his state income taxes represented the net proceeds of that business.
7. Appellant did not have health insurance through his business.
8. Appellant's business was affected by the Covid-19 pandemic. Much of the work he expected to perform was cancelled because of the quarantine. As a result, he was uncertain about his income throughout the year and was hesitant to take on expenses.
9. At some point, Appellant had investigated purchasing health insurance and believed that the cost of that insurance would have been \$800 a month, which he didn't think he could afford.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2020, Appellant was self-employed and did not have insurance through that employment. Therefore, he did not have access to employment-based insurance during that year.

Further, Appellant was not eligible for government-subsidized insurance. His annual income in 2020 of \$71,500 was above \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance in Massachusetts. 956 C.M.R. § 12.04(1) (Connector Care eligibility regulations).

However, Appellant could have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$71,500 for a tax household of one person was deemed able to afford 8 percent of income for health insurance. (I obtain

that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$5,720 annually or \$476.66 a month. During 2020, a person like Appellant who lived in Plymouth County and was 29 years of age could have obtained insurance for a premium of \$269 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellant.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant's income in 2020 was uncertain. His business was adversely affected by the quarantine, and so his income was uncertain. As a result, he was hesitant to take on other expenses. Also, he was under the mistaken belief that insurance would cost him \$800 a month, which he would not have been able to afford under state standards. Based on the foregoing, I exercise my discretion to waive the penalty against Appellant in its entirety.

Appellant remained uninsured as of the date of the hearing. As a result, he may be subject to the individual mandate penalty for 2021 as well. Appellant was urged to apply for health insurance through the Health Connector. An application can be filed through the Health Connector's website at www.mahealthconnector.org or by calling 1-877-623-6765.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-791

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 16, 2021

Decision Date: November 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants are a married couple who will be referred to as Husband and Wife in this decision. Both Appellants appeared at the hearing, which was held by telephone, on November 16, 2021. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (3 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (22 pages)

FINDINGS OF FACT

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

1. Husband was 55 years old and Wife was 57 years old at the end of 2020.
2. During 2020, Appellants lived in Middlesex County.
3. Appellants filed their 2020 Massachusetts taxes as married filing jointly with no dependents.
4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2020 of \$256,367. See Exhibit 2.

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

5. Appellants reported in the Schedule HC that they filed with their 2020 state income taxes and confirmed at the hearing that they had health insurance meeting minimum creditable coverage (MCC) standards in January, 2020, but did not have it at any further point in 2020. Exhibit 2.
6. In January 2020, Wife was working at a job with a Massachusetts employer through which she obtained health insurance.
7. She changed jobs and started the new job in February. The new job was with an out-of-state employer. That job provided her with health insurance, and she enrolled in that insurance. Husband was covered under the Wife's plan.
8. In early 2021, Appellants received a 1099-HC form from the health insurer, which stated that the insurance did not meet MCC standards.
9. Documents for the plan indicate that the deductibles for the plan were \$500/\$1000 for individuals and \$1,000/\$2,000 for families. The maximum out of pocket expenditure was \$1500/\$3000. Exhibit 3.
10. Plan documents also indicated that the plan covered a range of medical benefits. However, the plan does not provide maternity coverage for dependents of the subscriber (Wife).
11. The plan in which Appellants were enrolled cost them approximately \$368 a month. The plan, which they had had before, had cost them approximately \$358 a month.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Insurance coverage satisfies the individual mandate requirement only if it constitutes "creditable coverage" as defined by the statute. M.G.L. c. 111M, § 2(a). "Creditable coverage" is defined as a plan that meets the standards for "minimum creditable coverage" (or "MCC") under regulations promulgated by the Health Connector's board. M.G.L. c. 111M, § 1. These regulations contain a number of requirements that an insurance plan must meet. One of those requirements is that the plan cover a broad range of medical services, specifically including, among others, maternity care. 950 C.M.R. § 5.03(1)(a)(5). Appellants' plan did not meet that requirement, because the plan did not cover maternity services for dependents of the plan subscriber. As a result, Appellants did not have insurance meeting MCC standards for 11 months of the year.

According to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance. The Health Connector's "Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00", which can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellants' case, they were without insurance for eleven months in 2020. Because they were entitled to a three-month gap without penalty, they have been assessed a penalty for only eight months.

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

Appellants had insurance available to them through Wife's employment. However, that insurance did not meet MCC standards. Therefore, they did not have access to MCC-compliant employment-based insurance from February through December of 2020.

Further, Appellants were not eligible for government-subsidized insurance. Their annual income in 2020 of \$256,367 was above \$50,730, which is 300 percent of the federal poverty limit for a household of two persons like Appellants'. (I obtain the figure of \$50,730 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes above 300 percent of the federal poverty limit are not eligible for Connector Care, which is government-subsidized insurance in Massachusetts.

However, Appellants could have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellants who had income of \$256,367 for a tax household of two persons were deemed able to afford 8 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellants' case, that amounts to \$20,509 annually or \$1,709 a month. During 2020, persons like Appellants who lived in Middlesex County and were in a married couple in which the older spouse was 57 years of age could have obtained insurance for two persons for a premium of \$864 a month. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would have been affordable for Appellants.

Because I have concluded that Appellants could have obtained affordable health insurance in 2020 but did not, I must determine whether they have stated grounds to waive the individual mandate penalty. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellants did actually purchase. See 956 CMR § 6.08(2)(b). In this case, Appellant unknowingly obtained insurance that did not meet MCC standards under state law. The cost of that insurance was actually higher than the MCC-compliant insurance they had previously obtained through Wife's earlier employment. The insurance that they obtained from the out-of-state employer met many of the standards of the MCC regulations, including having deductibles and out of pocket maximums

below the limits set by the MCC regulations. See 956 C.M.R. §§ 5.03(1)(c)(3), (d)(3). Thus, Appellants were not trying to avoid premium cost by purchasing inadequate insurance. It was reasonable for them to take the insurance offered by Wife's employer because other insurance purchased in the non-group market would have had significantly higher premium cost and might have exposed them to more potential out-of-pocket costs.

Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellants in full.

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-795

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 16, 2021

Decision Date: November 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 16, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (3 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (3 pages)

FINDINGS OF FACT

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

1. Appellant was 26 years old at the end of 2020.
2. During 2020, Appellant lived in Bristol County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$19,424. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
6. Appellant worked at two part-time jobs during 2020. Neither part-time job offered him health insurance.
7. His hours in both of those jobs were drastically reduced because of the Covid-19 pandemic and resulting quarantine.
8. Appellant did not know that he could apply for Connector Care for health insurance.
9. Before turning 26, Appellant had been insured through his parents' insurance policy.
10. Appellant was a citizen.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2020, Appellant worked at two part-time jobs, neither of which offered him health insurance. Therefore, he did not have access to employment-based insurance during that year.

Further, Appellant could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L.c. 111M. Under those standards, an individual like Appellant who had income of \$19,424 for a tax household of one person was deemed able to afford only 2.9 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$563 annually or \$46 a month. During 2020, a person like Appellant who lived in Bristol County and was 26 years of age would have had to pay at least \$269 a month to obtain insurance through the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

However, Appellant was eligible for government-subsidized insurance. His annual income in 2020 of \$19,424 was below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet the other eligibility requirements, which include citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 C.M.R. § 12.08. I conclude that Appellant met these other eligibility requirements based on his testimony that he was a citizen and that he did not have employer-sponsored insurance. Unfortunately, Appellant was not aware that he could have obtained insurance through the Connector Care program and so he never applied.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant's income in 2020 was low and uncertain. His hours were drastically reduced because of the Covid-19 pandemic. As a result, Appellant had difficulty meeting his necessary expenses. Given those circumstances, Appellant reasonably believed that he could not afford any additional expenditure such as health insurance premiums. He was unaware that, if he obtained insurance through Connector Care, the premiums would be based on income. Thus the insurance would be either very low-cost or no-cost, depending on his income. Based on the foregoing, I exercise my discretion to waive the penalty against Appellant in its entirety.

Appellant remained uninsured as of the date of the hearing. As a result, he may be subject to the individual mandate penalty for 2021 as well. Appellant was urged to apply for health insurance through the Health Connector. When he applies, he should request financial assistance to see if he qualifies for Connector Care. An application can be filed through the Health Connector's website at www.mahealthconnector.org or by calling 1-877-623-6765.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-849

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 23, 2021

Decision Date: November 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 23, 2021. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (3 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (8 pages)

FINDINGS OF FACT

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

1. Appellant was 49 years old at the end of 2020.
2. During 2020, Appellant lived in Middlesex County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$157,180. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
6. Appellant started a new job in the middle of 2019. This job involved him working as a contractor located full-time in a Massachusetts business.
7. Through that job, Appellant was offered health insurance, which he took. In early 2020, he received a 1099-HC from the insurer that provided the insurance indicating that the insurance met MCC standards for the months that he was covered in 2019. See Exhibit 3 (2019 1099-HC).
8. In August 2020, Appellant began working for a new employer. He did not take that employer's health insurance. Instead, he took his rights under COBRA, the federal law that guarantees persons the right to continue in employer-sponsored health insurance for a period of time after they leave that employment.
9. As a result, Appellant remained insured for the entire year of 2020 through the same plan that had insured him in 2019.
10. In early 2021, Appellant received a 1099-HC from the insurer. See Exhibit 3 (2020 1099-HC). Unlike the one received the previous year, this 1099-HC stated that the insurance plan did *not* meet MCC standards at any point during 2020.
11. After receiving the 2020 1099-HC, Appellant attempted to contact the insurer to get an explanation of the discrepancy, but the customer service persons he spoke with were unable to provide an explanation.
12. Appellant had not been notified and had not seen any evidence of a change in coverage under the plan between 2019 and 2020.
13. Appellant's health insurance plan covered doctor's visits and prescription drugs during 2020.
14. Appellant paid approximately \$293 a month for the health insurance in 2020. See Exhibit 3. This amount was comparable to what he had paid for the plan in 2019.
15. In early 2021, Appellant switched to a different health plan through a new employer.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Insurance coverage satisfies the individual mandate requirement only if it constitutes "creditable coverage" as defined by the statute. M.G.L.c. 111M, § 2(a). "Creditable coverage" is defined as a plan that meets the standards for "minimum creditable coverage" (or "MCC") under regulations promulgated

by the Health Connector's board. M.G.L. c. 111M, § 1. These regulations contain a number of requirements that an insurance plan must meet. 950 C.M.R. § 5.03.

In this case, Appellant was notified that the coverage he had in 2020 did not meet MCC standards. This notification is perplexing because Appellant had been notified the previous year that the same coverage did meet MCC standards. Appellant was not aware of any change in the coverage itself. Further, there had been no substantive change in the MCC standards that would have explained such a different result.

Thus, it appears that the notification by the insurance company in either 2019 or 2020 was an error. On the record, it is not possible to determine which was which. However, Appellant was reasonable in relying on the 2019 statement that the insurance met MCC standards. The plan continued to cover doctor's visits and medications in 2020 as it had in 2019. There had not been a notable change in premium that might have indicated a change in the nature of the coverage.

In deciding whether Appellant has stated grounds to appeal the individual mandate penalty assessed against him, I may consider a range of factors, including the cost of insurance that Appellant purchased. See 956 CMR § 6.08(2)(b). In this case, Appellant obtained insurance at a price that was reasonable and that was equivalent to the cost of insurance meeting MCC standards. Thus, Appellant was not seeking to avoid cost by signing up for inadequate insurance. Rather, Appellant simply continued in an insurance plan that he had once been assured met MCC standards.

Based on the foregoing, I exercise my discretion to waive the penalty assessed against Appellant in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 20-851

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 23, 2021

Decision Date: November 30, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 23, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 43 years old at the end of 2020.
2. During 2020, Appellant lived in Norfolk County.
3. Appellant filed his 2020 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2020 of \$19,367. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2020 state income taxes and confirmed at the hearing that he did not have health insurance meeting minimum creditable coverage (MCC) standards at any point in 2020. Exhibit 2.
6. Appellant worked part-time during 2020. The job did not offer him affordable health insurance.
7. Appellant was a citizen of the United States.
8. In 2019, Appellant was enrolled in coverage through MassHealth, which is the state's Medicaid carrier. He had obtained that coverage with the assistance of a financial counselor when he had gone to a hospital for treatment in 2019.
9. At the end of 2019, he was notified by MassHealth that his income was too high and he no longer qualified. The upper threshold for most MassHealth programs is 133 percent of the federal poverty limit (FPL). The FPL for a family of one person for 2020 was \$12,880. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references/2021-poverty-guidelines>. Thus, 133 percent of that amount was \$17,130.
10. At that point, he attempted to sign up for Connector Care, which is government subsidized insurance offered through the Health Connector. The upper threshold for Connector Care is 300 percent of the FPL. See 956 C.M.R. § 12.08.
11. When Appellant attempted to apply for Connector Care online, he went to a website that asked for his telephone number, which he provided. Shortly afterward, he was contacted on the telephone by a sales representative, who quoted him insurance products at a cost of \$400. He felt he could not afford that amount given his income.
12. The website he had reached was not the Health Connector's website. The Health Connector does not make outgoing sales calls. Further, the cost of insurance through Connector Care for a person of Appellant's income would have been considerably less than \$400.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2020, Appellant worked at a part-time job that did not offer him health insurance. Therefore, he did not have access to employment-based insurance during that year.

Further, Appellant could not have afforded to purchase unsubsidized health insurance on the non-group market under state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$19,367 for a tax household of one person was deemed able to afford only 2.9 percent of income for health insurance. (I obtain that percentage figure from Table 3 to the instructions for the 2020 Schedule HC.) In Appellant's case, that amounts to \$561 annually or \$46 a month. During 2020, a person like Appellant who lived in Middlesex County and was 43 years of age would have had to pay at least \$316 a month to obtain insurance through the non-group market. (I obtain the premium figure from Table 4 to the instructions for the 2020 Schedule HC). Thus, under state standards, this amount would not have been affordable for Appellant.

However, Appellant was eligible for government-subsidized insurance. His annual income in 2020 of \$19,367 was below \$37,470, which is 300 percent of the federal poverty limit for a household of one person like Appellant's. (I obtain the figure of \$37,470 from Table 2 to the instructions for the 2020 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet the other eligibility requirements, including citizenship or legal permanent residence in the United States and lack of access to affordable employer-sponsored insurance. See 956 C.M.R. § 12.08. I conclude that Appellant met these other eligibility requirements based on his testimony that he had previously been found eligible for MassHealth, which also requires that the recipient be a citizen or legal permanent resident, and that he did not have employer-sponsored insurance.

Unfortunately, Appellant was not successful in applying for Connector Care. Instead, when he attempted to reach the Health Connector online, he went to another website, which sold unsubsidized commercial products at prices much higher than Connector Care coverage. A sales representative who got his telephone number through that website contacted him and quoted a price of approximately \$400 a month. By contrast, the cost of coverage through Connector Care is based on income. See 956 C.M.R. § 12.04(3). The premium for a Connector Care plan would have been in line with the amount deemed affordable to Appellant under state affordability standards.

Because Appellant could have obtained affordable insurance, but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant's income in 2020 was low. Coverage through Connector Care was his only option. He attempted to find such insurance but did not succeed due to an error. He did not realize that he had obtained the wrong cost figure when he was quoted a figure of \$400, which would not have been affordable. As a consequence, he did not sign up for any insurance. Appellant stated in the hearing that he expected to obtain health insurance through employment effective at the start of 2022.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 19-1183

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

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 7, 2021

Decision Date: December 14, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 7, 2021. The hearing record consists of the testimony of Appellant and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (3 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (4 pages)

FINDINGS OF FACT

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

1. Appellant was 63 years old 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. Exhibit 2.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$27,365. See Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable coverage standards at any point in 2019.
6. Appellant did not work at any point in 2019.
7. During the year, he lived on savings and withdrawals from a retirement account.
8. Appellant is a citizen of the United States.
9. Appellant did not apply for Connector Care at any point in 2019. He believed that he had been told at one point that his income was too high to receive government-subsidized insurance, but he did not recall who had given him that information.
10. Appellant turned 65 in 2021 and applied for Medicare. He was covered under that program 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 2020 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether Appellant should be penalized for not having coverage, I must first consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2019 Schedule HC instructions at pages HC 7-9

First, Appellant was unemployed throughout the year. Thus, he could not have obtained employment-based insurance.

Further, Appellant could not have afforded to purchase health insurance through the non-group market using state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who had income of \$27,365 for a tax household of one person was deemed able to afford 4.2 percent of income for health insurance. (I obtain that figure from Table 3 to the instructions for the 2019 Schedule HC.) In Appellant’s case, that amounted to \$1,149 annually or \$95 a month. In 2019, an individual like Appellant who was 63 years old and living in Worcester County would have had to pay \$418 a month for health insurance. (I obtain that premium figure from Table 4 to the instructions for the 2019 Schedule HC.) Thus, insurance on the non-group market would not have been affordable to Appellant in 2019.

However, Appellant was eligible for government-subsidized insurance. His annual income in 2019 of \$27,365 was below \$36,420, which was 300 percent of the federal poverty limit in 2019 for a household

of one person like Appellant's. (I obtain the figure of \$36,420 from Table 2 to the instructions for the 2019 Schedule HC.) Persons with household incomes below 300 percent of the federal poverty limit are eligible for Connector Care, which is government-subsidized insurance in Massachusetts, provided they meet other eligibility requirements of having citizenship or legal permanent residence in the United States and not having access to affordable employer-sponsored insurance. 956 C.M.R. § 12.04(1) (Connector Care eligibility regulations). Appellant's testimony established that he met both those requirements.

Because Appellant could have obtained affordable insurance, but didn't, I am required to determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has. Appellant did not apply for Connector Care because he was under the mistaken belief that his income was too high for that program. This is unfortunate because Connector Care would have provided him with comprehensive, affordable insurance. Further, Connector Care was Appellant's only option to obtain insurance that he could afford. His income was too low to purchase insurance without government subsidy. Further, I take into account that Appellant applied for Medicare when he turned 65 and became eligible, and that he was insured as of the date of the hearing.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA16-807

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2016 Tax Year Penalty

Hearing Date: November 22, 2021

Decision Date: November 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 22, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 26, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2016.
- Exhibit 3: The Appellant's letter requesting a hearing dated May 7, 2021, with attachments.
- Exhibit 4: Health Connector Appeals Unit E-mail to the Department of Revenue (DOR) dated July 15, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 31 in April, 2016 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 2016 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2016 was \$28,546 (Exhibit 2).
4. The Appellant did not have insurance for any months of tax year 2016 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2016. The Appellant filed an appeal of the assessment in May 2021 (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2016 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 2016. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2016.
7. In accordance with Table 3 of Schedule HC for 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$28,546 could afford to pay \$100 per month for health insurance. In accordance with Table 4, the Appellant, age 31, living in Essex County, could have purchased private insurance for \$216 per month for a plan (Schedule HC for 2016). Private insurance was not affordable for the Appellant in 2016.
8. The Appellant testified that they switched jobs in December 2015 and lost their employer sponsored health insurance. The Appellant said that their new employer offered health insurance after ninety days. The Appellant said that they were initially paid \$16 per hour and were told that after the 90 days this would be increased to \$18. This did not happen. The employer sponsored insurance premium quoted was over \$200 per month and the Appellant said that they could not pay that. By the time the Appellant realized this in early March, open enrollment at Health Connector had ended and the Appellant could not get help paying for health insurance. The Appellant said that they left this employer in March 2016 and was not employed full time until May 2016. The Appellant said that this employer did not offer health insurance for 2016. I found the Appellant to be credible (Appellant Testimony).
9. The Appellant would have been eligible for ConnectorCare coverage in 2016 because the Appellant did not have access to affordable employer sponsored health insurance and Appellant's income was less than 300% of the federal poverty level, which was \$35,310 for a household of one in 2016 (See Table 2 of Schedule HC-2016 and 956 CMR 12.04) (Appellant Testimony).
10. The Appellant would not have been eligible for ConnectorCare coverage for the period of March through December 2016 because open enrollment ended in February 2016, the Appellant did not apply during this period and the Appellant was not eligible for a Special Enrollment Period (Appellant Testimony).
11. The Appellant testified that they had substantial living expenses for rent, utilities, car expenses and food and struggled to meet these expenses in tax year 2016 with their limited income (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 of tax year 2016 and consequently 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 2016, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$28,546 could afford to pay \$100 per month for health insurance. According to Table 4, the Appellant, age 31, living in Essex County, could have purchased a private insurance plan for \$216 month. See Schedule HC for 2016. Private insurance was not affordable for the Appellant in tax year 2016.

The Appellant did have access to employer sponsored health insurance in tax year 2016. The Appellant had taken a job in December 2015 and was told that they would be eligible for health insurance after ninety days. The Appellant was also told that their hourly wage would be increased by \$2.00 an hour after ninety days. The Appellant’s wages were not increased and in March the Appellant was informed that the monthly health insurance premium was over \$200. This was more than the \$216 deemed affordable for the Appellant under Table 3 of Schedule HC for 2016. The Appellant would have been eligible for ConnectorCare coverage based upon lack of access to affordable employer sponsored insurance and the Appellant’s income of \$28,546 which was less than \$35,310 for their household of one. See Table 2 of Schedule HC 2016 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2016 it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant lost their employer sponsored health insurance in December 2015. The Appellant expected to be enrolled in their new employer’s health insurance in March 2016. By the time the Appellant found out that this insurance would not be affordable, open enrollment at the Health Connector had ended and for the period of April through December the Appellant did not have access to ConnectorCare. 45 CFR § 155 and 956 CMR 12.10(5).

The Appellant testified to substantial monthly living expenses in tax year 2016 and said that they struggled to meet these expenses especially for the months they were unemployed. 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).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2016. 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 2016.

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: PA18-109

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: November 22, 2021

Decision Date: November 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 22, 2021.¹ 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 October 26, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2018.
- Exhibit 3: The Appellant's letter requesting a hearing dated July 12, 2021, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 45 in April, 2018 filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Berkshire County, MA in 2018 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2018 was \$37,256 (Exhibit 2).
4. The Appellant did not have insurance for any months of tax year 2018 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2018. The Appellant filed an appeal of the assessment in July 2021 (Exhibits 2, 3).

¹ This appeal was heard in conjunction with case number PA19-1192. Two separate decisions are issued.

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2018 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2018. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2018.
7. In accordance with Table 3 of Schedule HC for 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$37,256 could afford to pay \$231 per month for health insurance. In accordance with Table 4, the Appellant, age 45, living in Berkshire County, could have purchased private insurance for \$317 per month for a plan (Schedule HC for 2018). Private insurance was not affordable for the Appellant in 2018.
8. The Appellant testified that they did have access to employer sponsored health insurance with a monthly premium of \$215.80 but the Appellant said that they could not afford to pay that. This premium is less than the \$231 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2018. The Appellant would not have been eligible for ConnectorCare coverage in 2018 because the Appellant had access to affordable employer sponsored health insurance and Appellant's income was greater than 300% of the federal poverty level, which was \$36,180 for a household of one in 2018 (See Table 2 of Schedule HC-2018 and 956 CMR 12.04) (Appellant Testimony).
9. The Appellant testified to monthly living expenses of \$1,861 including: rent--\$675; electricity-\$300; telephone-\$100; car payment-\$356; car insurance-\$60; gasoline-\$150; medication-\$20; food-\$200; and credit cards \$150. The Appellant said that they fell behind in their utility payments and rent and used credit cards to help buy food and gasoline. The Appellant testified that they were evicted from their apartment in late 2018. The Appellant's credible testimony is supported by a Notice to Quit dated November 9, 2018 (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months of tax year 2018 and consequently 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 2018, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$37,256 could afford to pay \$231 per month for health insurance. According to Table 4, the Appellant, age 45, living in Berkshire County, could have purchased a private insurance plan for \$317 month. See Schedule HC for 2018. Private insurance was not affordable for the Appellant in tax year 2018.

The Appellant did have access to employer sponsored health insurance in tax year 2018. The monthly premium of \$215.80 was less than the \$231 deemed affordable for the Appellant under Table 3 of Schedule HC for 2018. The Appellant would not have been eligible for ConnectorCare coverage based upon access to affordable employer sponsored insurance and the Appellant's income of \$37,256 which was more than \$36,180 for their household of one. See Table 2 of Schedule HC 2018 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2018 it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified to substantial monthly living expenses in tax year 2018 and testified that they struggled to meet these expenses. The Appellant received several utility shut off notices, fell behind in their rent and received a Notice to Quit on November 9, 2018. 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)(a)(b).

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2018. 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 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-418

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: August 19, 2021

Decision Date: December 3, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 19, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until September 18, 2021, for the Appellant to submit additional information. The Appellant submitted additional information on September 30, 2021, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 3/21/21 Appeal (6 pages)
- Exhibit 3: 7/20/21 Hearing Notice (2 pages)
- Exhibit 4: 9/30/21 Open-Record Documents (24 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$37,667. The Appellant turned sixty-two years old in 2020. (Exhibit 1)
2. The Appellant lived in Suffolk County in 2020. (Exhibit 1)
3. The Appellant appealed from the assessment of a twelve-month penalty on her 2020 income tax return checking off "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for her appeal. (Exhibit 2)
4. The Appellant worked for a temp agency from November 2019 through May 21, 2020, when she stopped getting work assignments from the agency and was laid off. (Appellant's testimony)
5. The temp agency did not offer health insurance coverage to employees. (Appellant's testimony)

6. In December 2019, the Appellant purchased a membership in the Association for Better Health (Evolve Health) through a Florida company and the membership included health insurance coverage in 2020 for a monthly premium of \$270 and a one-time enrollment fee of \$100. (Appellant's testimony; Exhibit 4)
7. The "account type" on the Appellant's bill showed "CC," and the Appellant thought that she had coverage through the Health Connector. (Appellant's testimony; Exhibit 4)
8. The Appellant had this health insurance coverage from January 2020 through July 2020, when she terminated the coverage due to its high cost. (Appellant's testimony; Exhibit 4)
9. The Appellant did not have health insurance coverage in August and September 2020. (Appellant's testimony)
10. The Appellant re-enrolled in health insurance coverage through Evolve Health, effective from October 2020 through December 2020, for a lower monthly premium of \$198 (plus a one-time enrollment fee of \$100. (Appellant's testimony; Exhibit 4)
11. The Appellant collected unemployment insurance benefits after May 2020 and continuing through the remainder of 2020. (Appellant's testimony)
12. During the last three months of 2020, the Appellant had health insurance coverage that did not meet MCC standards because she could not afford to pay a monthly premium of \$233 for coverage in 2020. (Appellant's testimony)
13. The Appellant's monthly expenses for basic necessities in 2020 included: \$543, condo fees; \$400, utilities; \$60, cellphone; \$65, landline; \$90, public transport; \$600, groceries; \$50, clothing; and, \$300, toiletries/vitamins, for a total of \$2,108/monthly and \$25,296 for the year. (Appellant's testimony)
14. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as her income was more than \$37,470 for a family size of one.
15. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$233/monthly for health insurance coverage in 2020.
16. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$432/monthly, based on her age and county of residence.
17. (Appellant's testimony; Exhibit 2)

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's employer in 2020 did not offer health insurance coverage; as the Appellant did not qualify for government-subsidized health insurance coverage in 2020; and, as the Appellant could not afford health insurance coverage in the Massachusetts private market in 2020 for a monthly premium of \$432, the Appellant had to rely on other means for obtaining coverage in 2020. While the Appellant was unsuccessful in finding coverage that met MCC standards, she was able to find coverage in the private market throughout 2020, with the exception of a two-month gap (after she had terminated an unaffordable plan and searched for affordable coverage) for an average monthly premium of \$199, and purchased the coverage. Under these circumstances, it would not serve the purposes of M.G.L c. 111M, § 2, to assess the Appellant any tax penalty for 2020. 956 CMR 6.08(2)(a), (b), and (d).

Accordingly, the Appellant's twelve-month penalty for 2020 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 20120

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-419

Appeal Decision: Appeal Granted

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: August 19, 2021

Decision Date: December 3, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on August 19, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until September 16, 2021, for the Appellant to submit additional information, including a list of his 2020 expenses for basic necessities. The Appellant did not submit any additional information, and the record was closed on September 16, 2021.

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 2020 Schedule HC (1 page)
- Exhibit 2: 3/24/21 Appeal (3 pages)
- Exhibit 3: 7/20/21 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2020 was Single with no dependents. The Appellant's federal AGI in 2020 was \$49,963. The Appellant turned twenty-nine years old in 2020. (Exhibit 1)
2. The Appellant lived in Middlesex County in 2020. (Exhibit 1)
3. The Appellant appealed from the assessment of a twelve-month penalty on his 2020 income tax return checking off "During 2020, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities," as the basis for his appeal. (Exhibit 2)
4. According to Table 2 of the 2020 Schedule HC Health Care, the Appellant did not qualify for government-subsidized health insurance in 2020, as his income was more than \$37,470 for a family size of one.
5. According to Table 3, Affordability, the Appellant could have afforded to pay up to \$333/monthly for health insurance coverage in 2020.

6. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2020 for \$269/monthly, based on his 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 the Appellant contends that he could not have afforded health insurance coverage in 2020, he has presented no evidence of his 2020 expenses for basic necessities, neither at hearing nor in response to the open-record request that he provide a list of his expenses for basic necessities in 2020. Therefore, there is no basis for me to conclude that the Appellant could not have afforded health insurance coverage in 2020. To the contrary, the 2020 Schedule HC Tables indicate that the Appellant could have afforded to pay up to \$333/monthly for coverage in 2020 and that the Appellant could have purchased health insurance coverage in the private market in 2020 for a monthly premium of \$269.

Accordingly, the Appellant’s twelve-month penalty for 2020 shall not be waived or reduced.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 20120

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-474

Appeal Decision: Approved

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: September 1, 2021

Decision Date: December 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant/husband appeared at the hearing, which was held by telephone, on September 1, 2021. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until September 29, 2021, for the Appellants to submit additional information. The Appellants did not submit any additional information, and the record was closed on September 29, 2021.

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

- Exhibit 1: Appeal Case Information from 2020 Schedule HC (1 page)
- Exhibit 2: 3/28/21 Appeal (3 pages)
- Exhibit 3: 8/4/21 Hearing Notice (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants filing status for 2020 was Married Filing Jointly with two dependents. The Appellants' federal AGI in 2020 was \$61,701. The Appellant/wife turned twenty-six years old in 2020. (Exhibit 1)
2. The Appellants lived in Hampshire County in 2020. (Exhibit 1)
3. The Appellants got married in October 2020. (Appellant/husband's testimony)
4. The Appellants appealed from the assessment of a six-month penalty assessed against the Appellant/wife on their 2020 income tax return checking off as the basis for appeal, "During 2020, you incurred a natural disaster, COVID19, causing substantial household or personal damage to/for you." (Exhibit 2)
5. The Appellant worked sixteen hours a week at a nursing home from December 2019 through October 2020. (Appellant/husband's testimony)
6. The Appellant's husband worked sixteen hours a week as a homeless-shelter driver from January 2020 through October 2020, and full time in November and December 2020. (Appellant/husband's testimony)

7. The Appellant’s mother passed away in January 2020. (Appellant/husband’s testimony)
8. The Appellant first got COVID in February 2020, when there was a COVID outbreak at the nursing home, and the Appellant was very sick through April 2020. (Appellant/husband’s testimony)
9. Until she was taken off the schedule in June 2020, the Appellant continued to work irregular part-time hours at the nursing home while COVID was always present in the environment. (Appellant/husband’s testimony)
10. From July 2020 to November 2020, the Appellant/husband worked full time as a driver for a homeless shelter. (Appellant/husband’s testimony)
11. Most of the income for the Appellant’s household in 2020 came the Appellant’s husband. (Appellant/husband’s testimony)
12. The Appellant had health insurance coverage during the last three months of 2020. (Appellant/husband’s testimony)
13. According to Table 2 of the 2020 Schedule HC Health Care, the Appellants qualified for government-subsidized health insurance in 2020, as their income was less than \$77,250 for a family size of four.
14. According to Table 3, Affordability, the Appellants could have afforded to pay up to \$300/monthly for health insurance coverage in 2020.
15. According to Table 4, Premiums, the Appellant/wife could have purchased individual health insurance coverage in the private market in 2020 for \$241/monthly, based on her age and county of residence in 2020.

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.

In this case, as the Appellant had a three-month grace period at the start of 2020 to obtain health insurance coverage and as the Appellant had health insurance coverage during the last three months of 2020, at issue here are the six months from April 2020 through September 2020 that the Appellant failed to have coverage. The COVID pandemic was raging then. During that period, the Appellant was working just sixteen hours weekly in one of the most problematic settings during COVID—a nursing home. Although she could have used health insurance coverage during that period, the Appellant was in no position to purchase coverage due to the uncertainty of her income and the nature of her work. As soon as she got married in October 2020 and her unstable circumstances improved, the Appellant got health insurance coverage for the last three months of the year. Under these circumstances, I conclude that, during 2020, the onset of COVID19 caused substantial personal damage to the Appellant, such that health insurance coverage was unaffordable for her.

Accordingly, the Appellant’s six-month penalty for 2020 shall be waived.

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 20120

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-611

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 20, 2021

Decision Date: December 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (9-7-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (4-27-21) (with letter) (6 pages); and
- Exhibit 4: Final Appeal Decision TY2018 (5-8-19) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 27 and 26 during 2020, from Suffolk County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. One of Appellants had health insurance for 2020 and the other Appellant did not have health insurance for 2020. (Exhibits 2, 3).
3. Appellants' Federal Adjusted Gross Income for 2020 was 92,804.00 (Exhibit 2).
4. Appellants were newly married in 2020, and one of Appellants was in the process of obtaining permanent residency status, incurring expenses for the process including attorney's fees. In addition, the Appellant with health insurance was not able to put the spouse on the insurance

due to the expense. The Appellant had lost a second part-time job and had less income for their expenses. (Appellant's testimony, Exhibit 3).

5. Appellants now both have health insurance through one of their employers. (Appellant Testimony).
6. Appellants' expenses for food, shelter, clothing, legal expenses and other necessities used a majority of the income. The expenses totaled approximately \$5,167.00 per month, or \$62,004.00 per year. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
8. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$538.00 per month. According to Table 3, Appellants were deemed to afford \$618.00. However, for much of the year, the income was lower, and Appellants would not have been able to afford health insurance based on the tables for those months. (Appellant Testimony).
9. Private insurance was affordable for the Appellants in 2020. (Schedule HC for 2020).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
11. Appellants claimed that they should be granted a waiver based on the grounds that they had lower income for part of the year, and had significant legal expenses related to immigration. In addition, Appellants claim that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2020, and Appellants did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived in whole, in part, or not at all.

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

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

One of Appellants did have health insurance for 2020, and the other Appellant did not have health insurance for 2020. They have been assessed a tax penalty for twelve months for one of them and zero months for the other. Appellants 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 Appellants during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellants, with an adjusted gross income of \$92,804.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$618.00 per month; according to Table 4, Appellants, who were 27 and 26 years old in 2020, from Suffolk County, and filed the 2020 Massachusetts taxes as Married filing jointly with a family size of 2, would have had to pay \$538.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that they should be granted a waiver based on the grounds that they had less income for part of the year, and also had significant expenses for immigration. In addition, Appellants claim that paying for health insurance would have caused a serious deprivation of food, shelter, and other necessities. Appellants now have health insurance. For these reasons, the waiver of the penalty is approved.

Appellants should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-613

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 20, 2021

Decision Date: December 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (9-7-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-28-21) (with document) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 24 during 2020, from Suffolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2020. (Exhibits 3, Appellant testimony).
3. Appellant's Federal Adjusted Gross Income for 2020 was 49,177,.00 (Exhibit 2).
4. Appellant had insurance through their parent who worked at a school in New Jersey and covered the Appellant. (Appellant's testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

- Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
6. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$269.00 per month. According to Table 3, Appellant was deemed to afford \$311.00.
 7. Private insurance was affordable for the Appellant in 2020. (Schedule HC for 2020).
 8. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
 9. Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance for 2020 through their parent who lived out of state. (Testimony of Appellant, Exhibit 3).
 10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
 11. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for 2020, however, may not have had the proper documentation to show the insurance when they filed their taxes. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was affordable for the Appellant during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$49,177.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$311.00 per month; according to Table 4, Appellant, who was 24 years old in 2020, from Suffolk County, and filed the 2020 Massachusetts taxes as single with a family size of 1, would have had to pay \$269.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance for 2020 through their parent. Appellant presented credible evidence that they had the insurance and that it met the requirements. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-615

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: October 20, 2021

Decision Date: December 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on October 20, 2021. The hearing record consists of the Appellant's representative's testimony, and the following documents which were admitted into evidence without objection by Appellant's representative:

- Exhibit 1: Notice of Hearing (9-7-21) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2020 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (4-24-21) (with letter and documents) (12 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 22 during 2020, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for 2020. (Exhibits 3, Appellant testimony).
3. Appellant's Federal Adjusted Gross Income for 2020 was 30,225.00 (Exhibit 2).
4. Appellant had insurance through their parent who worked for a large employer and covered the Appellant. The tax return was prepared by a tax preparer who did not complete the information correctly regarding health insurance. An amended return was then filed that was correct. (Appellant's representative's testimony, Exhibit 3).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

6. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$269.00 per month. According to Table 3, Appellant was deemed to afford \$105.00.
7. Private insurance was not affordable for the Appellant in 2020. (Schedule HC for 2020).
8. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2020).
9. Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance for 2020 through their parent who lived out of state. (Testimony of Appellant, Exhibit 3).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses; and did not incur expenses due to the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2020 (Exhibit 3).
11. Appellant was not homeless, was not thirty days or more behind in rent in 2020, and Appellant did not receive shut-off notices for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for 2020, however, an error was made on the tax return by the tax preparer and an amended return has since been filed. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2, and 3. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08.

Private insurance was not affordable for the Appellant during 2020. According to Tables 3 and 4 of the HC Schedule for 2020, Appellant, with an adjusted gross income of \$30,225.00 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 \$105.00 per month; according to Table 4, Appellant, who was 22 years old in 2020, from Bristol County, and filed the 2020 Massachusetts taxes as single with a family size of 1, would have had to pay \$269.00 for coverage per month insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they should be granted a waiver based on the grounds that they had health insurance for 2020 through their parent. Appellant presented credible evidence that they had the insurance and that it met the requirements. For these reasons, the waiver of the penalty is approved.

Appellant should note that the waiver of the penalty is based upon the facts that I have determined to be true for the 2020 appeal. They should not assume that a similar determination will be made in the future should they again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-702

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 5, 2021
Decision Date: December 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 5, 2021. 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: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated April 10, 2021
- Exhibit 3: Correspondence from Health Connector, dated October 14, 2021
- Exhibit 4: Final Appeal Decision for 2010

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 42 and 33 years old in 2020 and resided in Suffolk County (Exhibit 1).
2. Appellants filed a Massachusetts 2020 tax return as married filing jointly with three dependents claimed (Exhibit 1).
3. Appellants had an Adjusted Gross Income for 2020 of \$85,176 (Exhibit 1).
4. Appellant was a sole proprietor and was out of work for most of the year due to the Covid 19 pandemic (Testimony of Appellant).
5. During 2020, Appellant cared for the parties' child when school was transferred to remote learning (Testimony of Appellant).
6. Appellants also cared and helped support elderly parents (Testimony of Appellant).
7. Appellant purchased health insurance beginning in September and the cost of the insurance was a substantial financial burden (Testimony of Appellant).
8. Appellants struggled to pay for basic necessities in 2020 (Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability

and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

10. According to Table 3 of Schedule HC for 2020 a couple filing as married filing jointly with three dependents claimed with an adjusted gross income of \$85,176 could afford to pay \$539 per month for private insurance. According to Table 4, Appellants, who were 42 and 33 years old and lived in Suffolk county could have purchased private insurance for a cost of \$793 per month.
11. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
12. Appellants, earning less than \$90,510 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
13. Appellant did not have health insurance for eight months of 2020 (Testimony of Appellant and Exhibit 1).
14. Appellant Spouse had health insurance for the entire year of 2020 (Testimony of Appellant and Exhibit 1).
15. Appellant has been assessed a penalty for five months for 2020 (Exhibit 1).
16. Appellant filed a hardship Appeal on August 10, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was income eligible for subsidized health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellants struggled to pay for necessities due to Appellant being out of work due to the pandemic. Appellant was unsure of when Appellant would be employed again. I find that purchasing health insurance would have caused Appellants to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 8/0

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-703

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 5, 2021
Decision Date: December 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 5, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated May 4, 2021
- Exhibit 3: Correspondence from Health Connector, dated October 14, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 63 years old in 2020 and resided in Plymouth county from January through October 2020 (Exhibit 1).
2. Appellant moved out of state at the end of October 2020 (Testimony of Appellant).
3. Appellant filed a Massachusetts tax return in 2020 as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2020 of \$20,000 (Exhibit 1).
5. Appellant was laid off at the end of 2019 and was unable to find employment in 2020 (Testimony of Appellant).
6. Appellant struggled to pay for basic expenses in 2020 (Testimony of Appellant).
7. Appellant's home was foreclosed on and Appellant was forced to vacate the home (Testimony of Appellant).
8. Appellant's income for 2020 is from a retirement account (Testimony of Appellant).
9. Appellant used the funds from the retirement account to purchase a home in another state (Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

11. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$20,000 could afford to pay \$134 per month for private insurance. According to Table 4, Appellant, who was 63 years old and lived in Plymouth county could have purchased private insurance for a cost of \$432 per month.
12. Private insurance was not considered affordable for Appellant in 2020 (Schedule HC for 2020).
13. Appellant, earning less than \$37,470 would have been income eligible for government subsidized health insurance (Schedule HC for 2020).
14. Appellant did not have health insurance during the time that Appellant lived in Massachusetts (Testimony of Appellant and Exhibit 1).
15. Appellant has been assessed a penalty for six months for 2020 (Exhibit 1).
16. Appellant filed a hardship Appeal on May 4, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

Appellant was income eligible for subsidized health insurance, so we must consider whether Appellant experienced a hardship so that health insurance was not affordable. Appellant was unemployed and struggled to pay for basic necessities. Appellant’s home was foreclosed on and Appellant was forced to vacate the home. Appellant moved to another state. I find that Appellant suffered a hardship and health insurance that provided minimum coverage was not affordable. See Schedule HC for 2020, 956 CMR 6.08 (1)(a), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2020 should be waived in its entirety.

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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-704

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2020 Tax Year Penalty
Hearing Date: November 5, 2021
Decision Date: December 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 5, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal, dated April 9, 2021
- Exhibit 3: Correspondence from Health Connector, dated October 14, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2020 and resided in Hampden County (Exhibit 1).
2. Appellant filed a Massachusetts 2020 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2020 of \$43,868 (Exhibit 1).
4. Appellant worked but Appellant's job was very insecure due to the Covid 19 pandemic (Testimony of Appellant).
5. Appellant was never sure if the job would continue (Testimony of Appellant).
6. Appellant lived with a grandparent in order to share expenses (Testimony of Appellant).
7. Appellant's grandparent lost employment due to the Covid 19 pandemic and Appellant helped the grandparent financially (Testimony of Appellant).
8. Appellant struggled to pay for basic necessities in 2020 (Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.

10. According to Table 3 of Schedule HC for 2020 a person filing as single with no dependents claimed with an adjusted gross income of \$43,868 could afford to pay \$278 per month for private insurance. According to Table 4, Appellant, who was 30 years old and lived in Hampden county could have purchased private insurance for a cost of \$241 per month.
11. Private insurance was considered affordable for Appellant in 2020 (Schedule HC for 2020).
12. Appellant, earning more than \$37,470 would not have been income eligible for government subsidized health insurance (Schedule HC for 2020).
13. Appellant did not have health insurance for twelve months of 2020 (Testimony of Appellant and Exhibit 1).
14. Appellant has been assessed a penalty for twelve months for 2020 (Exhibit 1).
15. Appellant filed a hardship Appeal on April 9, 2021 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2020, private health insurance was considered affordable for Appellant, so we must consider whether the purchase of insurance would have caused Appellant to experience a deprivation of basic necessities. Appellant’s job was insecure and Appellant was never sure if the job would continue. Appellant lived with a family member and they struggled to pay for living expenses. After Appellant’s family member became unemployed, Appellant was responsible for all of the living expenses for both of them. I find that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter, clothing and other necessities. See Schedule HC for 2020, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

I find that the penalty assessed should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them for 2020 and should not assume that a similar decision will be made if Appellant fails to have health insurance that meets Massachusetts standards in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20717

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 10, 2021

Decision Date: December 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 10, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2020 signed and dated by Appellant on May 4, 2021
- Exhibit 2: Appeal Case Information from Schedule HC 2020
- Exhibit 3: Notice of Hearing sent to Appellant dated October 15, 2021 for November 10, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2020 Massachusetts tax return as a single person with no dependents claimed, was 43 years old in 2020 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2020 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$32,898 in 2020 (Testimony of Appellant, Exhibit 2).
4. Appellant had a full-time job from January through the beginning of April, 2020 when the company Appellant worked for laid off 75% of its staff. Appellant was paid about \$20 an hour and worked 40 hours a week. Appellant had health insurance through the job until the end of April (Testimony of Appellant, Exhibit 2).
5. After Appellant was laid off, he collected unemployment compensation. Until mid-summer, Appellant received \$1,000 a week. The amount was then reduced to about \$350 a week until mid-October (Testimony of the Appellant).

6. In mid-November, Appellant obtained employment through a temp agency. Appellant earned \$16.00 an hour and worked 40 hours a week. Appellant was not offered health insurance through the temporary position (Testimony of Appellant).
7. Appellant has been assessed a tax penalty for five months, August through December, 2020. The 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 2020 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2020. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2020.
9. According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$32,898 could afford to pay \$137 per month for health insurance. According to Table 4, Appellant, 43 years old and living in Middlesex County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2020 Tables 3 and 4, Exhibit 2).
10. According to Table 2 of Schedule HC for 2020, Appellant, who earned less than \$37,470 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2020, and Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2020 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2020 (Testimony of Appellant).
13. Appellant did not receive any shut-off notices for basic utilities in 2020 (Testimony of Appellant).
14. Appellant had the following monthly expenses for basic necessities in 2020: rent, heat, and electricity-\$1,097; telephone and internet-\$135; food, household items, and personal care items-\$620; clothing and laundry-\$30; transportation-\$150; health insurance-\$200 January through April. Appellant moved at the end of September. From October through December, Appellant also spent \$25 a month for electricity (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2020 should be waived, either in whole or in part.

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

of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

45 CFR 155.410 and 420 provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event. Examples of a qualifying event include the loss of health insurance from a job, moving outside of a health insurer's service area, loss of MassHealth, getting married, a change in household dependents, among other things. If an individual has a qualifying event, the individual may apply for coverage through the Connector within 60 days of the event, even outside of an open enrollment period.

Appellant had health insurance in from January through April, 2020. Appellant is entitled to a three-month grace period without penalty prior to obtaining or losing coverage. Appellant's penalty for May through July is waived under this provision of Massachusetts General Laws, Chapter 111M, Section 2. The appellant has been assessed a penalty for August through December. The appellant appealed the assessment. See Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2020, the appellant with no dependents claimed with an adjusted gross income of \$32,898 could afford to pay \$137 per month for health insurance. According to Table 4, Appellant, 43 years old and living in Middlesex County, could have purchased insurance for \$316 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2020 Tables 3 and 4, and Exhibit 2.

Appellant was unemployed from April through mid-November. In November, Appellant obtained a temporary position. He was not offered health insurance through this job. Appellant had no access to employer-sponsored health insurance from August through December, the months for which Appellant has been assessed a penalty. See the testimony of the Appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$32,898 less than the income limit for one person (\$37,470). Appellant was eligible for ConnectorCare based upon his income and also because he had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2020.

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

Appellant had the following expenses for basic necessities in 2020: rent, heat, and electricity-\$1,097; telephone and internet-\$135; food, household items, and personal items-\$620; clothing and laundry-\$30; transportation-\$150; health insurance-\$200 January through April. Appellant moved at the end of September. From October through December, Appellant also spent \$25 a month for electricity. See the testimony of the appellant which I find credible.

Appellant testified, and I find the testimony credible, that he collected unemployment compensation after losing his job in April. Starting in mid-summer, Appellant received about \$350 a week, or about \$1,500 a month. In mid-

November, after finding a job, Appellant earned \$640 a week, or \$2,754 a month before taxes. During these months, Appellant had expenses for basic necessities amounting to approximately \$2,050. From August through mid-November, Appellant's expenses were far greater than his income. Each of these months, Appellant ran a significant deficit. Though he earned more during the last six weeks of the year, Appellant still ran a deficit if we consider his total expenses and total income from August through December. I find that pursuant to 956 CMR 6.08 (1)(a), Appellant experienced a financial hardship such that the cost of purchasing health insurance would have been caused Appellant to experience a serious deprivation of basic necessities. Coverage was, therefore, unaffordable for him.

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

PENALTY ASSESSED

Number of Months Appealed: 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-785

Appeal Decision: Penalty Overturned in Part

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 15, 2021

Decision Date: December 13, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 15, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2020

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 45-years-old, is single, and does not have children. In 2020, he resided in Suffolk County, MA. He did not have health insurance in 2020. (Testimony, Ex. 2)
2. Prior to 2020, the appellant last had health insurance in 2019 through the Health Connector. (Testimony)
3. The appellant did not have health insurance available through an employer in 2020. (Testimony)
4. The appellant did not investigate health insurance options for 2020 through the Health Connector. When the pandemic closed everything down in mid-March, 2020, he believed that even if he purchased insurance, he would not be able to see a doctor or go to a hospital. He ultimately concluded that it made no sense to purchase insurance if he was unable to use it. (Testimony)

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

5. The appellant lived in an apartment with roommates from January through the end September, 2020. His felt that his health was threatened by the lifestyle of some of the roommates whom he did not believe were taking appropriate Covid precautions both inside and outside the apartment. The situation caused him a lot of anxiety and threw his life into upheaval. He decided to leave and moved into his own apartment in October for the rest of the year. (Testimony)
6. During 2020, the appellant allowed a close friend who was in extreme need to borrow some of his credit cards. The friend spent up to the credit limit on the cards and did not pay him back. As a result, the appellant incurred a debt of approximately \$10,000.00 which he began to pay off in monthly installments of approximately \$1500.00-\$2000.00. (Testimony)
7. Towards the end of 2020, the appellant began to look for a house outside of the city which he was able to purchase in March, 2021. (Testimony)
8. The appellant did not enroll in health insurance in 2021. (Testimony)
9. The appellant reported an adjusted gross income of \$113,068.00 on his 2020 federal tax return, and reported that he was single with no dependents. (Ex. 2)
10. From January through September, 2020, the appellant had regular monthly expenses of approximately \$2630.00 for rent (\$1500.00); heat, electricity and cable and internet service (\$350.00); cell phone (\$60.00); automobile insurance (\$70.00); and food (\$650.00). From October through December, 2020, he had regular monthly expenses of approximately \$2580.00 for his rent which included heat, electricity and cable and internet service (\$1800.00) and the same charges for his cell phone, automobile insurance, and food. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2020 due to “other” reasons.² He also submitted a letter with his statement in which he stated in part that during Covid, it was impossible to see a doctor for non-emergencies or go to a hospital, and he felt that it would be wasteful to pay for insurance under those circumstances. He further stated that he was afraid of catching Covid if he went to a hospital.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2020,

² During the hearing, the appellant requested that his appeal also be considered on the ground that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities.

Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he last had health insurance in 2019 through the Health Connector. He testified that it did not make financial sense to purchase insurance during 2020 because he would not be able to see a doctor or go to a hospital due to the pandemic shutdown. He testified that he lived in an apartment with roommates whom he felt did not take appropriate Covid precautions inside and outside the apartment forcing him to leave and move into his own apartment in October. He testified that he lent his friend his credit cards and the friend spent up to the limit on both cards without paying him back. Finally, he testified that he did not enroll in insurance for 2021.

The evidence provided by the appellant established that his income for 2020, \$113,068.00, was greater than 300% of the federal poverty level (FPL), which for 2020 was \$37,470.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income greater than \$49,961.00 is deemed to be able to afford a monthly premium of \$753.79 (8.00% of \$113,086.00/12). Table 4 of the Premium Schedule indicates that a 44-year-old individual (the age of the appellant in 2020) in Suffolk County (where the appellant resided in 2020) could have purchased private health insurance for \$316.00 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 2020.

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 she experienced a hardship during 2020. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2020 could be waived if 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 insufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that from January through September, 2020, he incurred basic monthly expenses of approximately \$4380.00, including his credit card debt, and from October through December, he incurred basic monthly expenses of approximately \$4330.00, including his credit card debt. Those expenses were less than his regular monthly pre-tax income of approximately \$9422.00, thereby making a private health insurance premium of \$316.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$5042.00/month for the first nine months and \$5092.00 for the last three months of the year is not a panacea, it does not appear on its face that the payment of \$316.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that he experienced a financial hardship that would entitle him to a complete waiver of the penalty. It is first noted that the reason the appellant provided for not purchasing insurance in 2020 is actually a more powerful argument in support of coverage. Had the appellant become sick and required hospitalization, the absence of insurance would have put him in a far worse financial situation than paying approximately \$316.00/month for coverage of hospital and other related costs. However, it is also noted that the events of 2020

were unprecedented and turned life upside down. While the decision to forgo insurance was misguided, it was not entirely unreasonable against the backdrop of a set of daunting and challenging circumstances . Accordingly, the penalty will be reduced to two months in order to mitigate the harshness of a full twelve-month penalty. A reduced penalty makes the point that the appellant is expected to comply with the Legislature’s requirement that Massachusetts residents must have compliant health insurance. In reaching this determination, consideration was given to the fact that the appellant has not purchased insurance for 2021.

Accordingly, based upon the totality of the evidence, the appellant’s request for a waiver from the penalty is **granted** for ten of the twelve months in question. The determination that the appellant is eligible for a partial waiver is with respect to 2020, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 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 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

ADDENDUM

The appellant is advised not to rely on a similar extension of leniency should he be assessed and appeal a tax penalty in the future for failure to obtain health insurance.

The appellant is advised that the Open Enrollment Period for health insurance for 2022 runs from November 1, 2021 through January 23, 2022. He is urged to investigate his options for health insurance through the Health Connector at **mahealthconnector.org** or by contacting customer service at 1-877-623-6765.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-789

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 15, 2021

Decision Date: December 13, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 15, 2021, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection:

- Ex. 1—Statement of Grounds for Appeal—2020
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

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

- Ex. 4—2020 Form MA 1099-HC

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 27-years-old, is married and does not have children. He had minimum essential coverage (MEC) health insurance for all of 2020. (Testimony, Ex. 4)
2. The appellant was employed throughout 2020 and was enrolled in employer health insurance. (Testimony, Ex. 4)

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

3. The appellant's tax returns for 2020 were prepared by a third party and it was mistakenly indicated on his Schedule HC that he did not have MCC health insurance for the entire year. (Testimony, Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), but did not specify a ground for her appeal. He also submitted a letter with his statement in which he stated in part that he was covered by employer health insurance for all of 2020 as evidenced by his 2020 Form 1095-C.

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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Although the appellant had MEC insurance for the entire year, he was assessed and is appealing a penalty of twelve months based on the information he provided on his Schedule HC.

The appellant testified credibly that he was enrolled in employer health insurance for all of 2020 and that it was mistakenly indicated on his Schedule HC that he was uninsured for the entire year.

The appellant's testimony was corroborated by a 2020 Form MA 1099-HC which indicated that he had MCC insurance from January through December. Since the appellant had full coverage for the entire year, he is not subject to a penalty.

Based on the foregoing, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2020, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

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

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-798

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: November 16, 2021

Decision Date: December 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 16, 2021. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 22, 2021
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 17, 2021
- Exhibit 4: Written Statement of Appeal dated May 19, 2021

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-three years old and is single. He lives in Middlesex County.
2. Appellant testified that he attended college in Georgia and had health insurance through his school until the end of May 2021, which testimony I find credible. Appellant also testified and provided documents that he did not live in Massachusetts after college graduation but lived in Illinois with his mother until August 2020, at which time he obtained employment that provided health insurance.
3. Appellant does have health insurance in 2021.
4. The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" .
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2020. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2020.

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 testified that he attended college in Georgia and had health insurance through his school until the end of May 2021, which testimony I find credible. Appellant also testified and provided documents that he did not live in Massachusetts after college graduation but lived in Illinois with his mother until August 2020, at which time he obtained employment that provided health insurance.

The Appellant did submit a Statement of Grounds for Appeal-2020 "Other. During 2020 other circumstance, such as applying the Affordability Tables in Schedule HC to you is inequitable" .

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule

established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2020, 150 percent of the FPL was \$18,735.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2020 income was more than 150 percent of the FPL, making 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 2020. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2020 Schedule HC Instructions and Worksheets, *supra*.

On these facts, I find that Appellant has shown that he had health insurance during 2020. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is exempt from a tax penalty for her non-compliance with the individual mandate.

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

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2020 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA20-922

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2020 Tax Year Penalty

Hearing Date: December 6, 2021

Decision Date: December 13, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on December 6, 2021.¹ 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 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2020.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on June 9, 2021.
- Exhibit 4: Appellant's letter in support of this appeal.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated December 6, 2021.
- Exhibit 6: Additional information submitted by the Health Connector on December 7, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 24 in October 2020, filed their 2020 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Plymouth County in 2020 (Exhibit 2).
3. According to the information on the Appellant's Schedule HC 2020, the Appellant did not have health insurance that met Massachusetts Minimum Creditable Coverage (MCC) standards for any months in tax year 2020 (Exhibit 2).

¹ This Appeal was heard with case number PA19-1184. Two separate decisions are issued.

4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in June 2021 (Exhibits 2, 3, 4).
5. The Appellant's Federal Adjusted Gross Income for 2020 was \$20,040 (Exhibit 2).
6. The Appellant testified that they signed up for health insurance through the Health Connector but had trouble making their payments. The Appellant said the system was having problems and they eventually gave up trying (Exhibit 4 and Appellant Testimony).
7. The record was left open until December 21, 2021 to allow the Health Connector to submit documentation including Customer Service notes related to the Appellant's 2020 application for health insurance (Exhibit 5).
8. On December 7, 2021 Health Connector submitted additional information including a copy of the Appellant's Tax Form 1095-B for 2020 verifying the Appellant had health insurance through the Health Connector for the period of January 1, 2020 through September 30, 2020. The Appellant's health insurance was cancelled effective October 1, 2020 for nonpayment by notice dated December 10, 2020 (Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2020 income tax return as a single person with no dependents. According to the information in the Appellant's Schedule HC 2020, the Appellant did not have health insurance for any months of tax year 2020. The Appellant was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty in June 2021.

The Appellant testified that they did sign up for health insurance through the Health Connector in tax year 2020 but had trouble paying their premium due to system issues. The Appellant said that they called Customer Service and was told to keep trying. The record was left open and Health Connector was asked to provide any information on file regarding the Appellant's attempt to obtain health insurance in tax year 2020. Health Connector researched the Appellant's case and submitted a copy of the Appellant's Form 1095-B 2020. This document verifies that the Appellant had health insurance that met MCC standards for the period of January 1, 2020 through September 30, 2020. The Appellant's health insurance was cancelled effective September 30, 2020 by notice dated December 10, 2020. Given the grace period outlined above and the fact that the Appellant was insured for the nine-month period of January through December in 2020, the Appellant should not be subject to a tax penalty.

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

PENALTY ASSESSED

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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1184

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 6, 2021

Decision Date: December 13, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held telephonically on December 6, 2021.¹ 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 15, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Statement of Grounds for Appeal signed by the Appellant on June 9, 2021.
- Exhibit 4: Appellant's letter in support of this appeal.
- Exhibit 5: Health Connector Appeals Unit Open Record Form dated December 6, 2021.
- Exhibit 6: Additional information submitted by the Health Connector on December 7, 2021.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 23 in October 2019, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a resident of Plymouth 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 in tax year 2019 (Exhibit 2).

¹ This Appeal was heard with case number PA20-922. Two separate decisions are issued.

4. The Appellant has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in June 2021 (Exhibits 2, 3, 4).
5. The Appellant's Federal Adjusted Gross Income for 2019 was \$21,941 (Exhibit 2).
6. The Appellant testified that they were late filing their tax return for 2019. The Appellant said that they believed they tried to apply for health insurance through the Health Connector but was told they made too much money (Exhibit 4 and Appellant Testimony).
7. The record was left open until December 21, 2021 to allow the Health Connector to submit documentation including Customer Service notes related to the Appellant's 2019 application for health insurance (Exhibit 5).
8. On December 7, 2021 Health Connector submitted additional information including a copy of the Appellant's Tax Form 1095-B for 2019 verifying the Appellant had health insurance through the Health Connector for all months of tax year 2019 (Exhibit 6).

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 income tax return as a single person with no dependents. 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. The Appellant was assessed a twelve-month penalty. The Appellant filed an appeal of the penalty in June 2021.

The Appellant testified that they did not file their 2019 tax return until 2021. The Appellant said that they recall that they tried to apply for health insurance through the Health Connector but was told they made too much money. The Appellant was advised that Health Connector does not deny applications for this reason. The record was left open and Health Connector was asked to provide any information on file regarding the Appellant's attempt to obtain health insurance in tax year 2019. Health Connector researched the Appellant's case and submitted a copy of the Appellant's Form 1095-B 2019. This 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 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: PA19-1192

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 22, 2021

Decision Date: November 29, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 22, 2021.¹ 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 October 26, 2021.
- Exhibit 2: Appeal Case Information from Schedule HC 2019.
- Exhibit 3: Appellant's letter requesting a hearing dated July 12, 2021, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant age 46 in April 2019, filed their 2019 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Berkshire County, MA in 2019 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2019 was \$38,874 (Exhibit 2).
4. The Appellant had health insurance for the period of September through December but did not have health insurance for the period of January through August in tax year 2019 (Exhibit 2).
5. The Appellant has been assessed a five-month penalty for 2019 (Exhibit 2).
6. The Appellant filed an appeal of the assessment in July, 2021 (Exhibit 3).

¹ This appeal was heard in conjunction with case number PA18-109. Two separate decisions are issued.

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. 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 \$38,874 could afford to pay \$241 per month for health insurance. In accordance with Table 4, the Appellant, age 46, living in Berkshire County, could have purchased private insurance for \$314 per month for a plan (Schedule HC for 2019). Private insurance was not affordable for the Appellant in tax year 2019.
9. The Appellant testified that their employer offered health insurance that cost \$120 every two weeks in 2019. The monthly premium of \$260 is more than the \$241 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2019. The Appellant did not have access to affordable employer sponsored health insurance for the period of January through August in tax year 2019 (Schedule HC for 2019 and Appellant Testimony).
10. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income was greater than 300% of the federal poverty level, which was \$36,420 for a household of one in 2019 (See Table 2 of Schedule HC-2019 and 956 CMR 12.04) (Exhibit 2).
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 and Appellant Testimony).
12. The Appellant testified that they struggled financially in tax year 2019 because they owed back taxes and were making payments to the IRS. The Appellant said that by the fall of that year was in a better place and enrolled in their employer's health insurance plan effective September 2019 (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 the period of January through August in tax year 2019 and consequently has been assessed a five-month penalty. The Appellant appealed the penalty citing financial hardship.

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$38,874 could afford to pay \$241 per month for health insurance. In accordance with Table 4, the Appellant, age 46 living in Berkshire County, could have purchased private insurance for \$314 per month (Schedule HC for 2019). Private insurance was not affordable for the Appellant in 2019.

The Appellant's employer offered access to health insurance but the monthly cost of \$260 was more than the \$241 deemed affordable for the Appellant in accordance with Table 3 of Schedule HC for 2019. The Appellant would not have been eligible for ConnectorCare coverage in 2019 because the Appellant's income of \$38,874 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 five-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: 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 you reside, or Suffolk County Superior Court within thirty (30) days of your receipt of this decision.

Cc: Connector Appeals Unit