

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 16, 2023

Decision Date: November 30, 2023

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, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no 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 16, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on December 1, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 59 in January 2021, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$65,503 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2021, the Appellant did not have health insurance for twelve months of tax year 2021 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2021 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$65,503 could afford to pay \$437 per month for health insurance. In accordance with Table 4, the Appellant, age 59, living in Norfolk County, could have purchased private insurance for \$401 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified that in Tax Year 2021 he was employed full time with a seasonal break in employment - during which he collected unemployment insurance¹. He added that he provided financial and other daily living support to his handicapped brother who lived with him as well as an adult sister. (Appellant Testimony).
9. Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income of \$65,503 was more than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04). Appellant said he inquired into ConnectorCare plans and found them too expensive (Appellant Testimony).
10. Appellant testified that he had monthly living expenses that exceeded \$2,400 a month. In addition, he testified to existing medical expenses resulting from an illness in 2021 when he was hospitalized (Appellant Testimony).
11. Appellant stated that he is currently uninsured.

ANALYSIS AND CONCLUSIONS OF LAW

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

¹ The appellant would have also have likely been eligible for subsidized coverage through the Health Connector because he received unemployment insurance payment during 2021. There was a special eligibility rule for that year required by the American Rescue Plan.

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

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

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

Appellant testified credibly that he was employed full time in 2021 and was the sole income earner in his household in 2021. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$65,503 could afford to pay \$403 per month for health insurance. According to Table 4, the Appellant, age 59, living in Norfolk County, could have purchased a private insurance plan for \$401 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 2021.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. He testified credibly to inquiring into a ConnectorCare plan which he felt that it was too expensive.

Appellant testified to circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that he incurred monthly living expenses in excess of \$2,400 for 2001; including general living expenses and providing living expenses and lodging to two adult siblings (one of whom is handicapped). His credible testimony regarding affordability of a HealthConnector plan, his providing for other family members, and his sole income earner status in the household were considered.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08 by purchasing a health care policy. Appellant's request to waive the penalty assessed against him of 12 months in Tax Year 2021 is granted.

The Appellant should note that the granting of a waiver of his penalty is based upon the facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Denied; the tax penalty remains.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: July 6, 2023

Decision Date: September 29, 2023

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 1 and Appellant 2 are husband and wife and filed their 2022 tax return jointly as married with no dependents. Appellant 1, the husband appeared at the hearing, and represented that he speaks on behalf of his wife - Appellant 2. The Hearing was held by telephone, on July 6, 2023. The procedures to be followed during the hearing were reviewed with Appellant 1 who was then sworn in. Exhibits were marked and admitted into evidence with no objection from Appellant 1. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated June 12, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on April 20, 2023.

Exhibit 4: School Transcript for Appellant 2 offered to show full time student status in response to Hearing Officer Open Record Form.

FINDINGS OF FACT

The record shows, and I so find:

1. Both Appellant 1 and Appellant 2 were age 24 in January 2022, and filed their joint Federal Income Tax return as married with no dependents (Exhibit 2).
2. The Appellants lived in Suffolk County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2022 was \$107,268 (Exhibit 2).

4. The Appellants did not have health insurance for all months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellants has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellants filing their Federal tax return jointly as a married couple with no dependents, with an annual adjusted gross income of \$107,268 could afford to pay \$715 per month for health insurance. In accordance with Table 4, the Appellants, age 24, living in Suffolk County, could have purchased private insurance for \$554 per month. Private insurance was affordable for the Appellant.
8. Appellants would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income of \$107,268 was more than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. Appellant 1 testified that in 2022, Appellant 2 was a full-time student with no job and was removed from her parent's health insurance policy¹. He said his employer offered health insurance for full time employees. He said he missed the open enrollment period for this plan. He testified they searched private and public options, but the quotes received were not viable options as they were not affordable. (Appellant Testimony).
10. Appellant 1 estimated he and his wife had monthly living expenses of up to \$2,700 including rent and other necessities. Appellant 1 did not provide any other evidence, either testimony or documents, of expenses he and his wife were obligated to pay, nor of any other circumstances that would create a hardship and prevent purchasing health insurance. (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with M.G.L. Chapter 111M, Section 2, also called the "individual mandate". The mandate requires every adult

¹ In response to the Hearing Officer's Open Record Form on this topic, Appellant's offered a transcript of Appellant 2. This transcript demonstrates full-time student status for Appellant 2 in a mix of on-line and in-person classes. M.G.L.Ch.15A, Section 18 requires students participating in at least 75 per cent of a full-time curriculum to have health insurance. Appellant 2 did not have health insurance for the entire Tax Year 2022 no explanation as to why this requirement was not meant was offered.

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellants filing their Federal tax return as married with no dependents claimed and with an adjusted gross income of \$107,268, could afford to pay \$715 per month for health insurance. According to Table 4, Appellant 1, age 24, living in Suffolk County, could have purchased a private insurance plan (married couple no dependents) for \$526 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellants in tax year 2022.

The Appellants would not have been eligible for ConnectorCare coverage based upon the Appellants’ income that was more than 300% of the federal poverty level which was \$52,260 for a household of two in 2022. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria.

Appellant 1 did not testify to any circumstances which would create a financial hardship precluding the purchasing of a health insurance policy that met MCC standards. He testified credibly that his employer offered health insurance in 2022 and he missed the enrollment date. The reasons offered by Appellant 1 for not having health insurance in 2022 were not compelling reasons to relieve the Appellants of a penalty. In addition, no satisfactory explanation was offered as to why Appellant 2 did not have health insurance as a full-time student- as required by Massachusetts law. Their income was at a significant level and their financial situation would have allowed them to purchase a health insurance plan from Appellant 1’s employer or on the private market.

In light of these facts, Appellants’ request to waive the penalty assessed against them of 12 months in Tax Year 2022 is denied. It is determined that the penalty assessed for Tax Year 2022 of 12 months remains.

The Appellant should note that the denial of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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:

Appellant 1	<u>12</u>	Number of Months Assessed:	<u>12</u>
Appellant 2	<u>12</u>	Number of Months Assessed:	<u>12</u>

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: August 8, 2023

Decision Date: September 22, 2023

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 8, 2023. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated July 7, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2021.

Exhibit 3: Statement of Grounds for Appeal, with attachments, received by the Department of Revenue November 3, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 46 in January 2021, filed his Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$1,090,798 (Exhibit 2).
4. The Appellant did not have health insurance for all months of tax year 2021 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a four-month tax penalty for 2021 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as Single, no dependents, with an annual adjusted gross income of \$1,090,798 could afford to pay \$7,272 per month for health insurance. In accordance with Table 4, the Appellant, age 46, living in Norfolk County, could have purchased private insurance for \$336 per month. Private insurance was affordable for the Appellant.
8. The Appellant credibly testified he moved to Massachusetts in mid-2021 after selling a company he founded, he added that his health insurance plan he had through the company terminated at this time. He further stated that he attempted to obtain health insurance, but was denied because he missed a deadline. In addition, the Appellant testified that he did not inquire into obtaining health insurance through ConnectorCare (Appellant Testimony and Exhibit 3). He would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. The Appellant believably testified that he applied for health insurance in the private market and was approved for a policy in August of 2021. He stated subsequently that the insurer contacted him and requested proof of his previously insured status within the last two months. He stated he missed this deadline and could not obtain a policy through this insurer. He added that a couple of months elapsed after moving to Massachusetts before he applied for a health insurance policy. (Appellant Testimony and Exhibit 3)

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant testified credibly that his income for Tax Year 2021 was attributed largely to the sale of his interest in a company in which he had partial ownership. In addition, he testified that while working for his company he had his health insurance premiums deducted from his pay. (Appellant Testimony). In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$1,090,798, could afford to pay \$7,272 per month for health insurance. According to Table 4, the Appellant, age 46, living in Norfolk County, could have purchased a private insurance plan for \$336 a month. See Schedule HC for 2021. Private insurance was affordable for the Appellant in tax year 2021.

The Appellant would not have been eligible for MassHealth as his income was well above the requirement for this program. He would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level which was \$38,280 for a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant regarding his inquiry into private market policies available and his attempt to obtain one. He testified he was approved for a policy in August of 2021, but subsequently denied because he could not demonstrate that he was insured within the last 60 days, as he missed this deadline. Appellant acknowledged his mistake in waiting too long in finding a policy after moving to Massachusetts (Appellant Testimony).

Appellant did not testify to any circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Purchasing a health care plan was not an economic burden to the Appellant. He had ample economic means and chose to wait nearly two months after moving to Massachusetts to inquire about a quote for health insurance. In light of these facts, it is determined that Appellant would not have sustained a financial hardship as defined in 956 CMR 6.08.

Based partially on Appellant’s testimony that his health insurance premiums were deducted from his pay at the company he was partial owner of (thus he did not focus on his lack of health insurance) and other changes and disruptions involved with moving to another state; I am exercising my discretion as the Hearing Officer and reducing Appellant’s penalty of 4- months to 2-months for Tax Year 2021.

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

PENALTY ASSESSED

Number of Months Appealed: 4 Number of Months Assessed: 2

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 11, 2023

Decision Date: September 24, 2023

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's Representative (Appellant's daughter) appeared at the hearing, which was held by telephone, on September 11, 2023. The procedures to be followed during the hearing were reviewed with the Appellant's Representative who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant's Representative. The hearing record consists of the Appellant's Representative's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 15, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments (including an Authorized Representative Designation Form), dated March 12, 2023.

Exhibit 4: Copy of text of an Email from Appellant's Representative explaining Appellant's monthly living expenses in detail in response to an Open Record Form from Hearing Officer received September 18, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 55 in January 2022, filed his Federal Income Tax return as Head of Household with one dependent (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Representative Testimony).

3. The Appellant's Federal Adjusted Gross Income for 2022 was \$55,250 (Exhibit 2).
4. The Appellant did not have health insurance for 11-months of Tax Year 2022 (Exhibit 2 and Appellant Representative Testimony).
5. The Appellant has been assessed an eight-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as the Head of Household with 1 dependent, with an annual adjusted gross income of \$55,250 could afford to pay \$343 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Middlesex County, could have purchased private insurance for \$466 per month (Appellant claimed 1 Dependent on Exhibit 2). Private insurance was not affordable for the Appellant.
8. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant's Representative testified that Appellant's income source was full time employment, but was contingent on the local school schedules making it difficult to compute his monthly income. She said his full-time employer offered health insurance to full time employees, but the premiums were too high for Appellant. She added that Appellant had health insurance through ConnectorCare for Tax year 2021 and into January of 2022. She said an error occurred with his coverage, based on his income and when the policy was to be renewed in 2022, she could not get in touch with any representative from ConnectorCare. She testified this resulted in his being terminated from the policy and a debt for premiums owed by Appellant. She said Appellant could not afford to pay this outstanding balance of an estimated \$740 to \$800. (Appellant Representative Testimony and Exhibit 3)
10. Appellant's Representative testified credibly that Appellant incurred large health care expenses in 2022- including charges from two different hospitals for medical charges of \$8,747 and \$3,302.72. In addition, she testified that Appellant had a large credit card debt that was likely in collection and had monthly living expenses of \$1,700, as well as providing financial support to his mother who lives in the same house. (Appellant's Representative Testimony and Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant’s Representative testified credibly that Appellant’s income for Tax Year 2022 was largely consumed by daily living expenses and he suffered medical conditions resulting in large medical bills that he is responsible for (Appellant Representative Testimony and Exhibit 3). In addition, she testified that that Appellant had health insurance through 2021 and into 2022 via ConnectorCare and he reestablished a policy in 2023 (Appellant Testimony). She added that an error occurred with his application for 2022 and she could not establish communications with the staff of the ConnectorCare resulting in a premium debt owed by Appellant for 2022.

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as single, with no dependents claimed and with an adjusted gross income of \$55,250 could afford to pay \$343 per month for health insurance. According to Table 4, the Appellant, age 55, living in Middlesex County, could have purchased a private insurance plan for \$466 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program. He would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level which was \$52,260 for a household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant’s Representative regarding Appellant obtaining a health care

insurance policy through the ConnectorCare for all of Tax Year 2021 and into and including January of 2022. In addition, Appellant’s Representative testified believably that both she and Appellant tried to obtain coverage for 2022 through the ConnectorCare and were not successful due to a communication breakdown with the Staff. (Appellant’s Representative Testimony).

Appellant’s Representative convincingly testified that Appellant lived “paycheck to paycheck” and most of his pay was consumed by daily living expenses. In addition, she testified to two large medical bills Appellant received from health care providers and large balances on his credit cards. (Appellant’s Representative Testimony and Exhibit 3).

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Accordingly, his penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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: 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 11, 2023

Decision Date: September 26, 2023

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 September 11, 2023. 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 August 15, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 15, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 20 in January 2022, filed his Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Plymouth County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$34,289 (Exhibit 2).
4. The Appellant did not have health insurance for 12-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$34,289 could afford to pay \$143 per month for health insurance. In accordance with Table 4, the Appellant, age 20, living in Plymouth County, could have purchased private insurance for \$277 per month. Private insurance was not affordable for the Appellant.
8. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that he moved to Massachusetts in January 2022 and was not aware of the requirement in Massachusetts for health insurance. He stated he found out in early 2023 after being told by his sister. He added that he did obtain health care insurance in 2023 through the Massachusetts Health Connector. (Appellant Testimony and Exhibit 3).
10. Appellant testified credibly that his income for 2022 was derived from a full-time job and a part time job for some months in 2022. He stated his full-time employer did offer health insurance for employees after one year (which he was not) and he was not sure if his part time employer offered a plan (Appellant Testimony).
11. Appellant testified that since he was not aware of the requirement, he did not attempt to get a health insurance policy through any means private or public in 2022 (Appellant Testimony).
12. Appellant credibly testified that his monthly living expenses exceed \$1,100 including rent and utilities.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$34,289 could afford to pay \$143 per month for health insurance. According to Table 4, the Appellant, age 20, living in Plymouth County, could have purchased a private insurance plan for \$277 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022. In addition, Appellant testified that his employer offered health insurance plans for those employed for one year or more which he was not. Health Insurance was not available through his employer.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program. He would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he moved to Massachusetts from a state that did not require health care coverage and was unaware of the Massachusetts requirement. He further testified that when told of the requirement, he obtained coverage through the Health Connector in 2023. This fact bolstered his claim that he was unaware of the requirement in 2022 (Appellant Testimony).

Appellant convincingly testified that his daily living expenses exceeded \$1,100 and consumed most of his salary. (Appellant Testimony). In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Accordingly, his penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-759

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 11, 2023

Decision Date: September 27, 2023

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's Representative (husband) appeared at the hearing, which was held by telephone, on September 11, 2023 and stated he spoke for Appellant. 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 Representative's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated August 15, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 16, 2023.
- Exhibit 4: Letter to Hearing Officer and Robert Half Benefit Enrollment Form in response to Open Record Form received September 18, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 57 in January 2022, filed her Federal Income Tax Return as Married Joint Return with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Representative's Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$152,696 (Exhibit 2).
4. The Appellant did not have health insurance for 8-months of tax year 2022 (Exhibit 2 and Appellant Representative's Testimony).

5. The Appellant has been assessed a four-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing her Federal Tax Return as Married Joint Return with no dependents, with an annual adjusted gross income of \$152,696 could afford to pay \$1,018 per month for health insurance. In accordance with Table 4, the Appellant, age 57 living in Middlesex County, could have purchased private insurance for \$869 per month. Private insurance was affordable for the Appellant.
8. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant's Representative testified credibly that he began with a new employer in May of 2022 and after a short wait he was added to the employer's health care plan. He further testified that he filed all paperwork with his employer to include his son and wife as covered individuals and believed they were covered. He said he noticed deductions for health care insurance in July of 2022, but did not notice the deductions were for an individual amount only. He said his son went to receive emergency care in December of 2022 using his membership card and was denied. (Appellant Representative's Testimony and Exhibit 3).
10. Appellant's Representative further averred that after his son was denied coverage in December of 2022, he contacted the insurance company and was told he needed to provide more information such as a marriage certificate and was informed his wife and son were not insured as his policy only covered him. He stated the insurance company would not admit his family retroactively as they stated he did not process an application for family coverage. (Appellant Representative's Testimony and Exhibits 3).
11. Appellant testified that he applied for the family coverage plan and was under the assumption that his family was covered. He offered documentation to demonstrate this. (Appellant Representative's Testimony and Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing her Federal Tax Return as Married Joint Return, with no dependents claimed and with an adjusted gross income of \$152,696 could afford to pay \$1,018 per month for health insurance. According to Table 4, the Appellant, age 57, living in Middlesex County, could have purchased a private insurance plan for \$869 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022. Health Insurance was available through an employer.

The Appellant would not have been eligible for MassHealth as her income was above the requirement for this program. She would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$52,260 for a household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria.

Credible testimony was received from the Appellant's Representative that he received coverage from his employer for his family - including Appellant. He further stated that his application was for a family plan and he assumed the family coverage was processed. He further testified that he learned in December of 2022 that he was the only one covered on the policy. He produced a Confirmation of Benefits Form from this employer which indicates medical insurance coverage for his wife and son was pending (Appellant Representative Testimony and Exhibit 4, page 3).

Appellant's representative did not testify to any economic factors that would demonstrate a hardship. An analysis of this issue is not required since this is a case of mistake and not an issue of affordability.

Appellant's Representative believably testified that he was under the assumption his family was insured and had documentation to substantiate this assumption. He became aware of the mistake and the insurance company would not add his family retroactively (Appellant Representative's Testimony). In light of these facts, Appellant's penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 11, 2023

Decision Date: October 20, 2023

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 September 11, 2023. 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 August 15, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 15, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 21 in January 2022, filed his Federal Income Tax Return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Worcester County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$23,686 (Exhibit 2).
4. The Appellant did not have health insurance for twelve-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents, with an annual adjusted gross income of \$23,686 could afford to pay \$57 per month for health insurance. In accordance with Table 4, the Appellant, age 21, living in Worcester County, could have purchased private insurance for \$277 per month. Private insurance was not affordable for the Appellant.
8. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that he moved to Massachusetts in 2020 and was not aware of the requirement for health insurance. He further plausibly stated that he obtained a social security number and employment authorization in August 2022 and began working full-time. He stated he was not aware of the Massachusetts requirement to have health insurance, but was made aware of it when he filed his income taxes for the first time in early 2023. He said he immediately obtained health insurance coverage through his employer (Appellant Testimony and Exhibit 3).
10. Appellant testified that since he was not aware of the requirement to have health insurance, he did not attempt to get a health insurance policy through any means private or public in 2022. He added that he was not aware of the HealthConnector or MassHealth (Appellant Testimony).
11. Appellant credibly testified that his monthly living expenses after August of 2022 exceeded \$1,000. He stated prior to his obtaining full-time employment he was dependent on friends for daily living necessities such as food and shelter as he did not work.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$23, 686 could afford to pay \$57 per month for health insurance. According to Table 4, the Appellant, age 21, living in Worcester County, could have purchased a private insurance plan for \$277 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022. In addition, Appellant testified that his employer offered health insurance plans, but he chose to opt of the coverage in 2022 to save money to purchase an automobile to make getting to work easier.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program. He would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was not aware of the Massachusetts requirement for residents to have health insurance, nor was he aware of the HealthConnector or MassHealth. He said he obtained a policy through his employer immediately upon learning of this requirement when filing taxes for the first time in 2023. This fact bolstered his claim that he was unaware of the requirement in 2022 (Appellant Testimony).

Appellant convincingly testified that he had no income for the first 8 months of 2022 and lived with friends and was dependent on others for his food and shelter. In addition, he believably testified to his monthly living expenses exceeding \$1,000 which consumed most of his salary after he began working (Appellant Testimony). In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08 had he purchased health insurance in 2022. Accordingly, his penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 3, 2023

Decision Date: October 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 3, 2023. 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 September 8, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 15, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 39 in January 2022, filed his Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$34,661 (Exhibit 2).
4. The Appellant did not have health insurance for twelve-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$34,661 could afford to pay \$144 per month for health insurance. In accordance with Table 4, the Appellant, age 39, living in Norfolk County, could have purchased private insurance for \$298 per month. Private insurance was not affordable for the Appellant.
8. Appellant testified that he was employed full-time in 2022 and could not afford the health insurance offered through his employer (over \$500 per month). In addition, he stated he was injured on the job in a previous year and had surgery in October of 2022 and began receiving Workers Compensation Insurance payments at that time. He stated that his pay was lessened when receiving these payments (Appellant Testimony and Exhibit 3). Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant did not qualify for MassHealth in accordance with the income requirements in place in 2022 (Appellant Testimony and Exhibit 2). He said he obtained a quote through the HealthConnector and it was too expensive. He expressed confusion about these two programs since his monthly income varied and did not have a full understanding of how either worked and gave up researching the process (Appellant Testimony).
10. Appellant credibly testified that his monthly living expenses in 2022 exceeded \$2,000 including his payment of child support, which consumed most of his take home pay. He said his income decreased in 2022 when collecting Workers Compensation Insurance and it caused him to sell his automobile in order to pay his monthly bills and he received a utility shutoff notice in July of 2022. In addition, he testified that he provides his daughter with money and clothes (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as Single, with no dependents claimed and with an adjusted gross income of \$34,661 could afford to pay \$144 per month for health insurance. According to Table 4, the Appellant, age 39, living in Norfolk County, could have purchased a private insurance plan for \$298 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for MassHealth as his income was above the requirements for this program. He would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was experiencing an economic hardship in 2022 including providing for his 12-year-old daughter, paying his own monthly living expenses and having to sell his automobile (Appellant Testimony).

Appellant convincingly testified to his monthly living expenses exceeding \$2,000 which consumed most of his take home salary. Further, his wages were garnished for child support beginning in 2021 and he could no longer afford health insurance through his employer (Appellant Testimony). In light of these facts, it is determined that purchasing health insurance would have resulted in Appellant sustaining a financial hardship as defined in 956 CMR 6.08. Accordingly, his penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 3, 2023

Decision Date: October 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 3, 2023. 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 September 8, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 4, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 56 in January 2022, filed his Federal Income Tax return as Head of Household with one dependent (Exhibit 2).
2. The Appellant lived in Barnstable County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$31,696 (Exhibit 2).
4. The Appellant did not have health insurance for twelve-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as Head of Household with one dependent, with an annual adjusted gross income of \$31,696 could afford to pay \$114 per month for health insurance. In accordance with Table 4, the Appellant, age 56, living in Barnstable County, could have purchased private insurance for \$1,031 per month (Family Plan). Private insurance was not affordable for the Appellant.
8. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$52,260 for a household of two in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). Appellant testified that he could not afford a policy under this program and testified to confusion as to how the program was administered (Appellant Testimony).
9. The Appellant testified that he has been collecting Workers Compensation Insurance since January of 2021 and this amount is much less than his regular salary. He said since August of 2023 he has been enrolled in MassHealth (Appellant Testimony and Exhibit 3).
10. Appellant credibly testified that his estimated monthly living expenses exceed \$3,000 including supporting his teenage son who lives with him. He said he is currently struggling financially - since being removed from Workers Compensation program for a paperwork discrepancy and he has applied for "foodstamps" (SNAP benefits).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the Massachusetts "minimum creditable coverage standards" (MCC) to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial

hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$31,696 could afford to pay \$114 per month for health insurance. According to Table 4, the Appellant, age 56, living in Barnstable County, could have purchased a private insurance plan for \$1,031 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program. He would have been eligible for ConnectorCare coverage based upon the Appellant's income that was less than 300% of the federal poverty level which was \$52,260 for a household of two. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was experiencing economic hardship in 2022 which has worsened this year. Appellant stated that he is facing major surgery this year and has obtained health insurance for him and his son via MassHealth (Appellant Testimony).

Appellant convincingly testified that he was injured while working in 2021 and his income source for 2022 was Workers Compensation. He further believably testified that the reduced income of this program was a financial hardship on him as he raised his teenage son. In addition, he plausibly testified to his monthly living expenses exceeding \$3,000 which consumed most of his salary. (Appellant Testimony). In light of these facts, it is determined that purchasing health insurance in 2022 would have resulted in Appellant sustaining a financial hardship as defined in 956 CMR 6.08. Accordingly, his penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 3, 2023

Decision Date: October 29, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 3, 2023. 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 September 8, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, undated.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 36 in January 2022, filed his Federal Income Tax Return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Worcester County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$56,690 (Exhibit 2).
4. The Appellant did not have health insurance for twelve-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$56,690 could afford to pay \$378 per month for health insurance. In accordance with Table 4, the Appellant, age 36, living in Worcester County, could have purchased private insurance for \$298 per month. Private insurance was affordable for the Appellant.
8. Appellant testified that he was employed full time and had a health insurance policy through his employer into 2022. He further stated the employer changed their plan in early 2022 and his premium increased significantly and he could no longer afford health insurance (Appellant Testimony). Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that he was homeless from the Summer of 2022 until the Fall of 2022 and had to obtain lodging at hotels and often slept in his vehicle. He said he searched ConnectorCare in 2022 and said because it was not open enrollment, he could not obtain a quote and added that he did not qualify for MassHealth. (Appellant Testimony and Exhibit 3).
10. Appellant credibly testified that his estimated monthly living expenses exceeded \$2,000 including medicine he needed in 2022 which costs \$20 a day. He testified that he is currently on MassHealth and is collecting unemployment insurance beginning earlier this year.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$56,690 could afford to pay \$378 per month for health insurance. According to Table 4, the Appellant, age 36, living in Worcester County, could have purchased a private insurance plan for \$298 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program. He would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was experiencing economic hardship (including homelessness) in 2022 which has worsened this year as he is currently collecting unemployment insurance (Appellant Testimony).

Appellant convincingly testified to his monthly living expenses exceeding \$2,000 which consumed most of his salary. (Appellant Testimony). In light of these facts, it is determined that purchasing health insurance would have resulted in Appellant sustaining a financial hardship as defined in 956 CMR 6.08. Accordingly, his penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 12, 2023

Decision Date: October 30, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 12, 2023. 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 September 12, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 20, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 53 in January 2022, filed her Federal Income Tax Return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$64,035 (Exhibit 2).
4. The Appellant did not have health insurance for six-months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a three-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing her Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$64,035 could afford to pay \$427 per month for health insurance. In accordance with Table 4, the Appellant, age 53, living in Middlesex County, could have purchased private insurance for coverage of her and her two children for \$422¹ per month. Private insurance was affordable for the Appellant.
8. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that she was divorced four years ago and her ex-spouse agreed to provide health insurance for her and her two daughters as part of the divorce settlement. She added that her ex-husband recently retired and then refused to provide health insurance. She said she was employed full-time in 2022 and her employer does offer health insurance. She stated that she attempted to enroll in her employer's plan at the start of 2022, but was informed that she would have to wait for the open enrollment season- resulting in a delay in her being insured. She testified believably that in July of 2022 she was able to enroll her and two daughters in the health insurance offered by her employer (Appellant Testimony and Exhibit 3).
10. Appellant testified that she did not predict it would take as long as it did to get enrolled in her employer's health care plan. She said she researched health insurance coverage costs and was "horrified" with the quoted costs. She said these costs were prohibitive since she knew she would be enrolled in her employer's plan shortly (Appellant Testimony).
11. Appellant credibly testified that her monthly living expenses in 2022 exceeded \$2,200. She added that her two daughters are under 26 years old and one lived with her in 2022. Both children were previously covered by her ex-husband's plan and her current plan (Appellant Testimony).

¹ The amount of monthly premiums from Table 4, 2022 Massachusetts Schedule HC for a Family Plan is \$1,077. Appellant testified that her two daughters (both under age 26) were part of the divorce agreement and her intent was to keep them on her plan.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing her Federal Tax Return as Single, with no dependents claimed and with an adjusted gross income of \$64,035 could afford to pay \$427 per month for health insurance. According to Table 4, the Appellant, age 53, living in Middlesex County, could have purchased a private insurance plan for \$422 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022. In addition, Appellant testified that her employer offered health insurance coverage, but she was uninsured while awaiting the open-enrollment period to begin.

The Appellant would not have been eligible for MassHealth as her income was above the requirement for this program. She would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria (Appellant Testimony).

Appellant convincingly testified that her ex-husband retired in 2022 and stopped including her and their two daughters on his health insurance as he had agreed in their divorce settlement. She further testified that she had a delay getting covered by her employer’s health insurance as it was not open enrollment season - resulting in her not being insured for a number of months in 2022. She further stated that she

had over \$2,200 of monthly living expenses and one of her adult children lived with her in 2022 (Appellant Testimony and Exhibit 3). In light of these facts, it is determined that by purchasing a health insurance plan in 2022, Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Accordingly, her penalty for Tax Year 2022 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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: 3 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 12, 2023

Decision Date: November 27, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 12, 2023. 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 September 12, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 20, 2023.
- Exhibit 4: In response to and Open Record Form: Documents concerning sale of automobile by Appellant and email claiming \$2,500 in monthly living expenses.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 55 in January 2022, filed his Federal Income Tax Return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Bristol County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$109,826 (Exhibit 2).
4. The Appellant did not have health insurance for nine-months of tax year 2022 (Exhibit 2 and Appellant Testimony).

5. The Appellant has been assessed a six-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$109,826 could afford to pay \$732 per month for health insurance. In accordance with Table 4, the Appellant, age 55, living in Bristol County, could have purchased private insurance for \$435 per month. Private insurance was affordable for the Appellant.
8. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. The Appellant testified that he was laid off from his full-time position in February of 2022. He stated he had health insurance at this position. He added that he obtained a new full-time position in March of 2022 which had participation in a health insurance plan as a benefit of employment. He further testified that due to a recurring health issue he could not continue at this employer and was laid off, thus lost his ability to participate in the health care insurance benefit (Appellant Testimony and Exhibit 3).
10. Appellant testified that when laid off in March of 2022 he approached his previous employer regarding COBRA coverage and was told the premium would be significantly higher than when he received the benefit while in full time employment. He added that it was not affordable. He added that he did not inquire to MassHealth or the Health Connector for a quote because he thought he would not qualify based on a conversation he had with a staff member of a local hospital (Appellant Testimony).
11. Appellant credibly testified that his monthly estimated living expenses exceeded \$2,000 and later amended this amount via email response to the Open Record Form to \$2,500. He added that his automobile failed and was unfixable forcing him to purchase a new car in 2022 (Appellant Testimony and Exhibit 4).
12. Appellant testified that in December 2022 while getting his tax information together he realized he was subject to a penalty and obtained health insurance through MassHealth (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as single, with no dependents claimed and with an adjusted gross income of \$109,826 could afford to pay \$732 per month for health insurance. Appellant testified that his income for 2022 consisted of pay and severance from his previous full-time employer, some earnings from his new full-time position and unemployment insurance (Appellant Testimony). According to Table 4, the Appellant, age 55, living in Bristol County, could have purchased a private insurance plan for \$435 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program in 2022. He would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was told he did not qualify for either MassHealth or the Health Connector by a staff member at a local hospital (Appellant Testimony).

Appellant convincingly testified that he had monthly expenses of \$2,500 and he was experiencing health issues which cost him a full-time position. In addition, he stated he was forced to purchase, at great expense, a new car when his car failed (Appellant Testimony and Exhibit 3). Appellant had significant

income for 2022 and did not make a good faith effort to find a health care plan through such avenues as the Health Connector¹. However, he did experience health issues and collected unemployment insurance in 2022 and experienced unexpected financial burdens. In addition, he was given incorrect information from a local hospital concerning his eligibility for the Health Connector and/or MassHealth resulting in him not inquiring into plans. In light of these facts, it is determined that Appellant would have sustained at least a partial financial hardship as defined in 956 CMR 6.08 had he purchased health insurance in 2022. Accordingly, I am exercising my discretion as the Hearing Officer and Appellant's six-month penalty for Tax Year 2022 is reduced to three months.

The Appellant should note that the granting of a partial waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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: 6 Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

¹ Appellant's loss of his employment and his health care insurance is considered a qualifying life event, which gives a special enrollment period for enrolling through the Health Connector.

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 12, 2023

Decision Date: November 19, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 12, 2023. 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 September 12, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on March 20, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 32 in January 2022, filed his 2022 Federal Income Tax as Single with no dependents (Exhibit 2).
2. The Appellants lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$56,274 (Exhibit 2).
4. The Appellant did not have health insurance for all months of tax year 2022 (Exhibit 2, Exhibit 4 and Appellant Testimony).

5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant, filed his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$56,274, could afford to pay \$375 per month for health insurance. In accordance with Table 4, the Appellant, age 32, living in Middlesex County, could have purchased private insurance for \$290 per month. Private insurance was affordable for the Appellants.
8. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
9. Appellant credibly testified that he moved to Massachusetts in October of 2021. He further stated he was not aware of the requirement for health care insurance until he was notified of this appeal. He testified further that he had lived in a series of states that do not require health insurance of their residents (Appellant Testimony and Exhibit 3).
10. Appellant believably testified that his monthly living expenses for 2022 including rent and food exceeded \$4,000 (Appellant 1 Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 6.08(2)(d).

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing their Federal Tax Return as Singel with no dependents claimed and with an adjusted gross income of \$56,274, could afford to pay \$375 per month for health insurance. According to Table 4, the Appellant age 32, living in Middlesex County, could have purchased a private insurance plan for \$290 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. In addition, the Appellant would not qualify for MassHealth due to the income requirements in place in 2022.

Appellant testified to circumstances which could create a financial hardship if a health insurance policy that met MCC standards was purchased. He stated his monthly living expenses in 2022 were \$4,000. A financial hardship might result by Appellant purchasing a health care plan under these circumstance. However, Appellant did not present evidence to support such a hardship.

In addition, Appellant testified that he was not aware of the Massachusetts requirement to have health care insurance after he moved from a state that did not have this requirement and living in a series of states over the years that did not have this requirement. However, Appellant testified his full-time employer offered a health insurance plan with his costs estimated at between \$50 and \$200 per month. He stated he chose not to participate because he would not use the benefits of the plan. He further testified he did not get health insurance after learning of the Massachusetts requirement - due to it not being open enrollment season (Appellant Testimony).

In light of these facts, it is determined that by purchasing a health care insurance plan Appellant would not have sustained a financial hardship as defined in 956 CMR 6.08. However, due to his new residency coming from a series of states that did not require health insurance, I am exercising my discretion and waiving three months of the Appellant's penalty. The penalty will now be nine months.

The Appellants should note that the granting of a partial waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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: 9

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 2, 2023

Decision Date: November 19, 2023

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 2, 2023. 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 13, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on March 20, 2023.
- Exhibit 4: Universal HealthShare Welcome Booklet and Payment Summary from Massachusetts Department of Revenue Child Support Enforcement Division, Account Summary (In response to Open Record Form).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 57 in January 2022, filed his 2022 Federal Income Tax as Single with no dependents (Exhibit 2).
2. The Appellants lived in Middlesex County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$39,151 (Exhibit 2).

4. The Appellant did not have health insurance for all months of tax year 2022 (Exhibit 2, Exhibit 4 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filed his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$39,151 could afford to pay \$243 per month for health insurance. In accordance with Table 4, the Appellant, age 57, living in Middlesex County, could have purchased private insurance for \$435 per month. Private insurance was not affordable for the Appellants.
8. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). Appellant credibly testified that he received a quote from ConnectorCare and found he could not afford to pay the amount quoted (Appellant Testimony).
9. Appellant credibly testified that he was employed full time in 2022 and his employer offered a health insurance plan and stated he could not afford the premiums (Appellant Testimony and Exhibit 3). Appellant further testified he had a health insurance plan from Universal Health Fellowship and it was accepted by all his providers – for which he paid \$269.02 monthly. (Appellant Testimony and Exhibits 3 and 4).
10. Appellant believably testified his monthly living expenses for 2022 including rent, food, and child support payments exceeded \$2,400 (Appellant 1 Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

In accordance with Table 3 of Schedule HC for 2022, the Appellant filing their Federal Tax Return as Single with no dependents claimed and with an adjusted gross income of \$39,151, could afford to pay \$243 per month for health insurance. According to Table 4, the Appellant age 57, living in Middlesex County, could have purchased a private insurance plan for \$435 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income that was more than 300% of the federal poverty level which was \$38,640 for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. In addition, the Appellant would not qualify for MassHealth due to the income requirements in place in 2022.

Appellant testified that he believed he was insured for all of 2022 through Universal HealthShare. An Open Record Form was sent to the Appellant and in response Appellant provided a Welcome Booklet from Universal HealthShare which described the product. On each page of the document in the lower right side of the page there is a bright colored graphic is the statement: "This Is Not Insurance". Further, at page nine of the document is the statement: "Universal HealthShare is not insurance and our Ministry- Universal Health Fellowship – is not an insurer and is not licensed by departments of insurance."

Based on the submitted document from Appellant he did not have health insurance for Tax Year 2022. Appellant was mistaken in believing he was insured. A review of the document submitted reveals that the services and payments offered by Universal Health Share deviate significantly from a MCC policy. In addition, according to filings with the Massachusetts Health Connector, Universal HealthShare did not file reports to qualify as a MCC plan for the year 2022. This was a case of mistake by the Appellant who made a good faith effort to be insured. He paid \$269 a month for what he believed was health insurance and he utilized the resources of the plan he had (Appellant Testimony and Exhibit 3).

In addition to the Appellant's mistake of fact regarding his insurance plan, he testified that he was employed full-time and he could not afford the plan his employer offered, nor the quote he received

from the HealthConnector. He credibly testified to circumstances which would create a financial hardship if a health insurance policy that met MCC standards was purchased. He further stated that his monthly living expenses were \$2,400 including child support payments. A financial hardship would have been incurred by Appellant purchasing a health insurance plan based on his adjusted gross income as defined in 956 CMR 6.08.

In light of these facts, the Appellants 12-month penalty for 2022 is waived in its entirety. The Appellants should note that the granting of a waiver of his penalty is based upon the facts that I have determined to be true in 2022. 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 2, 2023

Decision Date: November 30, 2023

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 2, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no 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 13, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on March 20, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 33 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Bristol County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$19,733.00 (Exhibit 2).
4. According to his Schedule HC for Tax Year 2022, the Appellant did not have health insurance for twelve months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$19,733.00 could afford to pay \$48 per month for health insurance. In accordance with Table 4, the Appellant, age 33, living in Bristol County, could have purchased private insurance for \$290 per month. Private insurance was not affordable for the Appellant.
8. The Appellant testified that in Tax Year 2022 he was employed full-time, until approximately February of 2022, at which time he was laid off and lost his health care insurance. He added that he had health insurance (Blue Cross Blue Shield of Arkansas) through and including February 2022. He said his full-time employer opposed him collecting unemployment insurance, and he was denied and he appealed this decision. He testified that this was not resolved in his favor until the end of 2022 and payments were received in 2023 - with most of it being garnished for back child support payments. He added that towards the end of 2022 he obtained full-time temporary employment and made inquiries for participation in a health care plan with this employer, but could not obtain coverage (Appellant Testimony).
9. Appellant would have been eligible for ConnectorCare coverage in 2022, because the Appellant's income was less than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). Appellant would not have been eligible for Mass Health coverage in 2022, but said he was not in a good position mentally to inquire and/or apply for either in 2022 (Appellant Testimony).
10. Appellant credibly testified that his lease for his apartment terminated in June of 2022 and he was homeless for the rest of 2022 living with his brother then friends and: "off the grid, in the woods". He stated he suffers from severe anxiety and depression (Appellant Testimony and Exhibit 3).
11. Appellant testified that he had monthly living expenses that exceeded \$1,800 a month through June of 2022 and after he lost his apartment his expenses were reduced to \$400 a month for food. (Appellant Testimony and Exhibit 3)
12. Appellant stated that he is currently employed and has health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant testified credibly that he was employed full-time until February 2022. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing his Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$19,733 could afford to pay \$48 per month for health insurance. According to Table 4, the Appellant, age 33, living in Bristol County, could have purchased a private insurance plan for \$290 a month. See Schedule HC for 2022. Private insurance was not affordable for the Appellant in tax year 2022.

The Appellant would have been eligible for ConnectorCare coverage based upon the Appellant’s income that was less than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. He would not have been eligible for MassHealth by the income requirements in place for 2022. He testified credibly that he was not in a mental state in 2022 to obtain quotes from either program.

Appellant testified to circumstances which would create a financial hardship precluding him from purchasing a health insurance policy that met MCC standards. Appellant testified credibly that he was laid off from full-time employment and lost his health insurance coverage. He further stated that he had to terminate his lease on his apartment because he could not afford rent and was subsequently homeless. He said he had to appeal his denial of unemployment insurance compensation and eventually was paid out in 2023 with most of this withheld for arrearage payments on child support (over \$6,000)

and he incurred basic monthly living expenses in excess of \$1,800 for half the year and \$400 while he homeless.

Appellant endured many economic and personal hardships in 2022. A special point of consideration was the fact that Appellant's adjusted gross income of \$19,733 was only slightly (\$410) above the 150% of the Federal Poverty Level (See Table 2 of Schedule HC-2022) which exempts those below it from a Penalty for not having health insurance.

In light of these facts, it is determined that Appellant would have sustained a financial hardship as defined in 956 CMR 6.08. Appellant's request to waive the penalty assessed against him of 12 months in Tax Year 2022 is granted.

The Appellant should note that the granting of a waiver of his penalty is based upon the facts that I have determined to be true in 2022. 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 2022f.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA22-861

Appeal Decision: Appeal Granted in part; four months of the tax penalty is waived.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 2, 2023

Decision Date: November 30, 2023

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 2, 2023. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no 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 13, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2022.
- Exhibit 3: Statement of Grounds for Appeal, with attachments, signed by the Appellant on March 21, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 47 in January 2022, filed a Federal Income Tax return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Suffolk County in 2022 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2022 was \$61,561 (Exhibit 2).
4. According to her Schedule HC for Tax Year 2022, the Appellant did not have health insurance for nine months of tax year 2022 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a six-month tax penalty for 2022 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing the Federal tax return as Single with no dependents, with an annual adjusted gross income of \$61,561.00 could afford to pay \$410 per month for health insurance. In accordance with Table 4, the Appellant, age 47, living in Suffolk County, could have purchased private insurance for \$364 per month. Private insurance was affordable for the Appellant.
8. The Appellant testified that in Tax Year 2022 she was laid off from her full-time employment in early 2022, thus lost her health insurance which she paid just over \$200 a month for. She stated she then obtained employment part time which became fulltime in September. She added that it took a period of time before she could participate in her employer's health insurance benefit. (Appellant Testimony).
9. Appellant would not have been eligible for ConnectorCare coverage in 2022, because the Appellant's income of was more than 300% of the federal poverty level, which was \$38,640 for a household of one in 2022 (See Table 2 of Schedule HC-2022 and 956 CMR 12.04). She stated she obtained a quote from the Health Connector but could not afford the premiums quoted. Appellant would not have been eligible for Mass Health coverage in 2022 (Appellant Testimony).
10. Appellant testified that she had monthly living expenses that exceeded \$1,800 a month including rent, food and utilities (Appellant Testimony and Exhibit 3).
11. Appellant stated that she is currently employed and has health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

Appellant testified credibly that she was employed full time until February 2022. In accordance with Table 3 of Schedule HC for 2022, the Appellant filing her Federal tax return as Single with no dependents claimed and with an adjusted gross income of \$61,561.00 could afford to pay \$410 per month for health insurance. According to Table 4, the Appellant, age 47, living in Suffolk County, could have purchased a private insurance plan for \$364 a month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2022.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level for a household of one. See Table 2 of Schedule HC 2022 and 956 CMR 12.04 for eligibility criteria. She would not have been eligible for MassHealth by the income requirements in place for 2022.

Appellant testified to circumstances which could create a financial hardship precluding her from purchasing a health insurance policy that met MCC standards after she lost her full-time job in early 2022. She had elderly family members and adult children living with her. She testified credibly that she worked part-time until September when she transitioned to full time at the employer and then had to wait until the following calendar year to participate in her employer’s health care insurance benefit. She further testified that she obtained a quote from the Health Connector, but could not afford this premium. She testified to monthly living expenses exceeding \$1,800.

Appellant did not substantiate that she would have sustained a financial hardship as defined in 956 CMR 6.08. However, she was out of work for a period and under-employed for another part of the year and had family members living in her household. These factors could create an economic strain on an individual making the purchase of an MCC plan challenging. I am exercising my discretion as the Hearing Officer and partially waiving the penalty assessed against Appellant of six months in Tax Year 2022 and reducing it to a two-month penalty.

The Appellant should note that the granting of a partial waiver of her penalty is based upon the facts that I have determined to be true in 2022. 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: 6 Number of Months Assessed: 2

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: July 18, 2023

Decision Date: Wednesday, July 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 18, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 2 pages |

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Exhibit 4	Correspondence And Continuance Information Form, COBRA, Dated 5/20/2022	2 pages
Exhibit 5	Commonwealth Of Massachusetts Monetary Determination Section Displaying The Current Weekly And Maximum Unemployment Benefits From The Appellate, Dated February 18, 2023.	1 page
Exhibit 6:	Health Insurance Processing Center Correspondence, Informing Appellant She Does Not Qualify For MassHealth.	2 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 56 years old in 2022. Appellant filed her 2022 Massachusetts tax return as Married Filing Jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$253,089.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 1382% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2022, as a Mortgage Processor at Guaranteed Rate and in a Full Time capacity. (Appellant's Testimony). Appellant did experience a period of unemployment during 2022, and was only employed in their position from January-May. (Appellant's Testimony). Appellant obtained new employment beginning in September. (Appellant's Testimony).
5. The Appellant was offered health insurance in 2022, by her first employer, at an approximate monthly cost of \$800.00. (Appellant's Testimony).
6. Appellant claimed that after her employment was terminated by Guaranteed Rate in mid-May 2022, she lost her insurance. She was offered an opportunity to continue her coverage through COBRA, but due to high costs, she decided against it. (Appellant's Testimony).
7. Subsequently, the Appellant advised her husband to secure insurance through the Social Security Administration, which he successfully accomplished. (Appellant's Testimony).
8. The appellant then applied for MassHealth but was denied due to her Adjusted Gross Income (AGI), filed as married and joint, exceeding the 2022 federal

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poverty limit by more than 1000%.

9. She considered applying through the Health Connector, but eventually held back, as she anticipated receiving a job offer, which materialized in the Fall of 2022. (Appellant's Testimony).
10. Appellant acknowledged that her husband worked part-time, one day a week, as a flower delivery person while also receiving disability payments from the Social Security Administration. (Appellant's Testimony). Appellant affirmed that she was the primary earner in her household but admitted ignorance about her precise AGI for 2022.
11. The appellant stated that both she and her husband compiled their financial documents and sought an accountant's services for their income taxes. She speculated that her income might have been around \$150,000 for that year, but was surprised to discover that the couple's joint AGI for 2022 was closer to \$250,000. (Appellant's Testimony). Appellant confirmed that such earnings reflected her compensation during her tenure at her former employer. (Appellant's Testimony). Appellant also testified that she was the primary earner for her family given her husband's position receiving Social Security Disability Insurance and his part time employment as a flower delivery person. (Appellant's Testimony).
12. The appellant further noted that her subsequent employer, the Quincy Housing Authority, offered her health insurance after a 90-day probationary period.
13. Appellant further testified that due to her good health and absence of ongoing medical issues or medications, she chose not to withdraw money from her savings to pay for COBRA or other health insurance since she wasn't actively using it at that time. (Appellant's Testimony).
14. The Appellant does currently have Health Insurance as of July of 2023. (Appellant's Testimony).
15. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
16. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$253,089.00 was deemed able to pay \$1,687.26 per month for health insurance, or 8.00% of her income.

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According to Table 4, Appellant, age 56 and living in Norfolk County, could have purchased private insurance for \$869.00 per month.

17. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
18. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year.
19. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof; (Testimony of Appellant, Exhibit 2).
20. Appellant did not provide any evidence that they incurred significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
21. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Residents who do not obtain insurance are subject to a tax penalty for "each of the

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

Appellant had health insurance for 6 month(s) in 2022. She has been assessed a tax penalty for 3 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$800.00. (Appellant's Testimony) The Appellant testified that she experienced periods of unemployment during the year 2022, and was employed during the following months: January-May (Appellant’s Testimony). Appellant then further testified that they obtained new employment beginning in September of 2022 and remained employed up and through their hearing on this appeal. (Appellant’s Testimony).

The Appellant was assessed a penalty of 3 months based on her lack of coverage over 6 months, being required to wait 90 days to begin health insurance at her new position obtained in September. (Appellant’s Testimony). It’s important to note that In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of their termination event.

A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage, such as in this instance from the Appellant’s prior job loss.

Qualifying coverage includes any group health plan offered through an employer to

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which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by her employer was \$800.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income.

Appellant was deemed to be able to afford only \$2,003.62 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent Appellant-employee's projected household modified adjusted gross income. The employer's offering was 3.79% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Throughout distinct periods of the year the Appellant was granted access to cost-effective healthcare coverage via her employment. Consequently, she was deemed ineligible for ConnectorCare benefits during these months. However, in the span from May through December, because of the waiting period to enroll after beginning her new employment in September, the Appellant held the capacity to apply for ConnectorCare, attributable to a shift in her circumstances after their employment termination in May. This could be done via the Special Enrollment Period. It's essential to note that these options offer a pathway to healthcare coverage when the standard employment-based route is not available.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs.

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12.09 (1).

Because the Appellant's Income was 1382% of the Federal Poverty Level, she is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$253,089.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,687.26 per month; according to Table 4, Appellant, who was 56 years old in 2022, lived in Norfolk County and filed her 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$869.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$21,090.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$1,687.26 per month), the Appellant could have afforded private health insurance with a premium of \$869.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

The appellant's spouse, who filed tax returns jointly with her, was entitled to insurance coverage, under the provision of the Social Security Disability Insurance (SSDI) program. This program is facilitated by the Social Security Administration and it extends to individuals who have been deemed disabled according to the SSA's criteria. The primary qualification for SSDI beneficiaries includes a sufficient history of paying into the Social Security system through employment taxes, coupled with a physical or mental impairment that prohibits sustained gainful employment.

The appellant's husband, as an SSDI recipient, was able to avail himself of this insurance coverage commencing in June 2022. Furthermore, he incurred no penalties during the entirety of the tax year 2022, underscoring the benefits of this program in providing a safety net for those unable to work due to disability.

Appellant's Claims of Inequity

The appellant presents a contention, arguing the inequity in applying the affordability tables to their situation in the referenced tax year. According to the appellant's testimony, following the termination of her employment by Guaranteed Rate in mid-May 2022, she lost her health insurance. An offer to maintain her insurance coverage through COBRA was presented, however, she declined due to the high

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associated costs. Subsequently, her husband successfully acquired insurance coverage through the Social Security Administration based on her advice.

Curiously, the appellant applied for MassHealth but received a denial due to the fact that her Adjusted Gross Income (AGI), declared as married and filing jointly, surpassed the federal poverty limit by almost 1000%. The appellant has further testified that she contemplated application through the Health Connector, but refrained as she awaited a forthcoming job offer, which came to fruition in the Fall of 2022. The appellant made it clear that, as a result of her good health status and lack of ongoing medical conditions or medication needs, she opted against using her savings for COBRA or any alternative health insurance, as she wasn't actively utilizing these services during that period.

While I comprehend and acknowledge the perspective of the appellant, I take exception to her rationale pertaining to their reasons for non-application of the affordability tables. The appellant made a conscious decision not to allocate savings towards health insurance during her period of unemployment, based on her robust health and lack of medical needs. This decision, which seems not to stem from financial constraints but rather from personal lifestyle considerations, persisted even after rejection from MassHealth and not pursuing health insurance via the Health Connector. Such a conscious decision creates a discord with the appellant's responsibilities under the law.

In light of the circumstances, the appellant ought to have sought health insurance through the private market during her period of unemployment, when she was unsuccessful in securing coverage via MassHealth. The law in Massachusetts mandates that residents procure health insurance or face a tax penalty for every month they remain uninsured, adhering to the individual mandate. This mandate provides a grace period of three months for individuals to either obtain health insurance or transition between policies.

In this case, the appellant had a sufficient window of time to secure coverage but decided against doing so to conserve her savings, given her perceived lack of immediate need for healthcare. However, this decision disregards the mandate.

Furthermore, no compelling evidence was presented by the appellant to justify a waiver of this requirement, particularly considering the significant level of her Adjusted Gross Income. The appellant's testimony even reveals a pattern of income consistency with the prior years aligning with her earnings in 2022. Hence, her financial capacity should have been sufficient to acquire health insurance during her unemployment period, reinforcing the expectation that the individual mandate should have been upheld.

Financial Hardship Analysis

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Since affordable insurance was available to the Appellant through their employer and via the private market during the period of unemployment she experienced in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to completely waive her penalty for the months in question.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have not caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 3 month penalty is therefore upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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Exhibit 4	2022 Form 1095 C	1 page
Exhibit 5	2021 Form 1095 C	1 page
Exhibit 6:	USPS Earning Statements, dated 1/14/23, 1/28/23, 2/11/23	9 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 31 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$82,888.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 610% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Mail Handler at the United States Postal Service in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$188.50. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$82,888.00 was deemed able to pay \$552.59 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 31 and living in Middlesex County, could have purchased private insurance for \$290.00 per month.

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10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by indicating that an error has been made by the Department of Revenue and he can demonstrate that he had appropriate health care coverage.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. The Appellant testified that he had appropriate Health Care coverage and could confirm such via the documents he provided. The Appellant did not check off any specific grounds for appeal. (Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The Appellant testified that for the entirety of the 2022 calendar year, as in previous years, he sustained his health insurance coverage through his employer, the United States Postal Service. (Appellant's Testimony).
16. The Appellant further corroborated his continuous employment throughout the year with substantiating documentation, demonstrating that his health insurance premiums were remitted on a monthly basis. Pay stubs submitted by the Appellant reveal that a sum of \$87 was deducted each pay period for his Blue Cross Blue Shield health plan. (Appellant's Testimony).
17. It is noteworthy, and I take administrative notice of the fact, that the United States Postal Service is a participant in the Federal Employees Health Benefits (FEHB) Program, which is generally acknowledged to satisfy the criteria for minimum creditable coverage for residents of Massachusetts.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

According to the Massachusetts Department of Revenue, the Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$188.50. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$188.50 a month. An employer sponsored plan’s coverage

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is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$656.20 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 2.73% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 2.73% of the employee's income. For the purposes of this Appeal, the employer's coverage is deemed to be affordable.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, The Appellant is not eligible for Advance Premium Tax Credits as their income does not fall within the 300% to 400% of the Federal Poverty Level range.

Because the Appellant's Income was 610% of the Federal Poverty Level, he is ruled to be INELIGIBLE based on income for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$82,888.00, was deemed to have been able to afford health

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insurance on the private market. According to Table 3, Appellant could have afforded to pay \$552.59 per month; according to Table 4, Appellant, who was 31 years old in 2022, lived in Middlesex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$290.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$6,907.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$552.59 per month), the Appellant could have afforded private health insurance with a premium of \$290.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Conclusion

The Appellant's testimony is deemed credible and is further corroborated by the documentary evidence presented. The records confirm that the Appellant maintained appropriate health insurance coverage through the Federal Employees Health Benefits (FEHB) Program, specifically via a Blue Cross Blue Shield plan, for each month of the 2022 calendar year.

Absent contrary information from the Health Connector or other regulatory agencies, the coverage appears, on its face, to satisfy the Commonwealth of Massachusetts' requirements for minimum creditable coverage. Therefore, the Appellant seems to have fulfilled his obligation under the Massachusetts individual mandate law for the year in question. The Appellant's penalty is therefore waived.

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

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: 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

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NOT be assessed a penalty for Tax Year 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1074

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 15, 2023

Decision Date: December 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 15, 2023. 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 2022 Signed by Appellant on 4/24/2023 (2 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 11/16/2023. (2 PP).

The record shows, and I so find:

1. Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 29 in 2022, lived in Essex County, and had zero (0) dependents. (Exhibit 1).
2. Appellant’s Federal Adjusted Gross Income for 2022 was \$26,114. (Exhibit 1).
3. Appellant testified he was laid off from his Employer in June 2022 and obtained a new job in November 2022, and that neither Employer offered Employer Sponsored Insurance (“ESI”). (Appellant’s Testimony).

4. Appellant testified he attempted to obtain Connectorcare in 2022 but was denied because of an issue with household income. (Appellant's Testimony).
5. According to Table 3 Appellant could have afforded \$91.40 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
6. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
7. The Appellant's monthly living expenses in 2022 included: Car Insurance: \$250, Transportation Costs: \$75, Cell Phone: \$35, Food \$200, Credit Cards: \$350, totaling \$910. (Appellant's Testimony).
8. The Appellant testified his net take home pay was \$600-\$750 Weekly during the time he was being penalized. (Appellant Testimony).
9. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2022 that the individual mandate did not apply to his because the expense of purchasing health insurance during 2022 would have caused him a deprivation of food and other necessities and a financial hardship as defined in 956 CMR 6.08. (Exhibit 2 and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that his income for 2022, \$26,114 was less than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$91.40 per month. According to Table 4, Appellant, age and living 29 living in Essex County during the time he was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2022. The Appellant testified that his employers did not offer ESI based on the small size of the Company which he was employed. 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 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to ESI since it was not offered by his employers. (Appellant's Testimony).

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

The Appellant's adjusted gross income was \$26,114. The Appellant's net take home pay was approximately \$600 Weekly (Appellant Testimony), or approximately \$2,400 per month. (Appellant Testimony). His monthly living expenses totaled \$910. (Exhibit 1, see par. above). Accordingly, I conclude that purchasing health insurance during 2022 at \$91.40 per month, given the Appellant's adjusted gross income of \$26,114, would not have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1)(e) & (3). However, in order to mitigate the harshness of a full penalty, I reduce the Appellant's assessed tax penalty from twelve (12) months to two (2) months.

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

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

PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 22-988

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: November 30, 2023

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 29, 2023. 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 2022 Signed by Appellant on 4/6/2023	(2 PP).
Exhibit 2(a):	Appellant's Statement in Support of Appeal	(1 P).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/25/2021	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 27 in 2022, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$42,885. (Exhibit 1).
3. The Appellant testified that her biweekly net pay was approximately \$1,200 a pay period.
4. The Appellant credibly testified that she could not afford the \$200+ per month premium for Employer Sponsored Insurance (ESI) given the cost of her basic monthly necessities. (Appellant's Testimony, Exhibits 2(a)).

5. The Appellant testified that she did not realize she was required to obtain insurance as part of the mandate. (Appellant's Testimony, Exhibits 2(a), (b)).
6. According to Table 3 Appellant could have afforded \$285.90 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$277.00 per month.
7. The Appellant would not have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was slightly more than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
8. The Appellant's monthly living expenses in 2022 included: Rent \$500, Utilities and WIFI \$180, Food \$200, Car Insurance \$400+, Car Payment \$500, Gas/Transportation \$440, Credit Cards \$500 (\$10,000 + approximate balance), totaling \$2,720. (Appellant's Testimony).
9. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2(b) with the appeal and that during 2022 that the individual mandate did not apply to her because the expense of purchasing health insurance during 2022 would have caused her a deprivation of food and other necessities. (Exhibits 2, 2(a)-(c)) and Appellants' Testimony).

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

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

The evidence provided by the Appellant established that her income for 2022, \$42,885 was more than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$285.90 per month. According to Table 4, Appellant, age and living 27 living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$277 per month. Individual coverage was affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2022. The Appellant testified that she could not afford the \$200 monthly cost of ESI. (Appellant’s Testimony, Exhibits 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee’s contribution for an individual plan is 9.61 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did have access to affordable ESI during the months she was being penalized. (Exhibits 1).

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

The Appellant’s adjusted gross income was \$42,885. Her net take-home pay was approximately \$2,400 per month. Her monthly living expenses totaled \$2,720 per month. (Appellant’s Testimony, see Pars. 3 and 8 above). Accordingly, I conclude that purchasing health insurance at the cost of \$285.90, in addition to her basic monthly necessary living expenses during 2022, would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) (e) & (3). Thus, the Appellant’s assessed tax penalty of twelve (12) months is waived entirely for this reason.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-989

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2022 Tax Year Penalty
Hearing Date: November 29, 2023
Decision Date: November 30, 2023

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 29, 2023. 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 2022 Signed by Appellant on 4/10/2023	(2 PP).
Exhibit 2(a):	Housing Court Proceeding Stipulation	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 10/25/2021	(2 PP).

The record shows, and I so find:

1. The Appellant, who filed a 2022 Massachusetts tax return filed single with a family size of 1, was age 32 in 2022, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2022 was \$23,997. (Exhibit 1).
3. The Appellant testified that her monthly net pay was approximately \$1,500 a month. (Appellant's Testimony),
4. The Appellant credibly testified that she was not offered Employer Sponsored Insurance (ESI). (Appellant's Testimony).

5. The Appellant testified she could not afford the cost of obtaining insurance through the Connector. (Appellant's Testimony, Exhibits 2(a)).
6. The Appellant testified that she had undergone a Court eviction proceeding in 2022. (Appellant's Testimony, Exhibits 2(a)).
7. The Appellant testified she was paying basic household expenses for a family member who needed a caretaker. (Appellant Testimony).
8. According to Table 3 Appellant could have afforded \$57.99 per month for health insurance in 2022. According to Table 4 Appellant could have purchased insurance for \$290.00 per month.
9. The Appellant would have been eligible for ConnectorCare coverage in 2022 because the Appellant's income was less than 300% of the poverty level, which was \$38,640.00. (See Table 2 of Schedule HC 2022, Appellant's Testimony).
10. The Appellant's monthly living expenses in 2022 included: Rent \$700, Phone \$80, Food \$450, Transportation \$50, Caretaker Family Member Expenses \$300, totaling \$1,580. (Appellant's Testimony).
11. In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2022>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2022 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 2022 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2022. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant adduced evidence at the hearing submitted a statement of grounds for appeal (Ex. 2, 2(a) with the appeal and that during 2022 that the individual mandate did not apply to her because receipt of an eviction notice, and that she incurred a significant unexpected increase in essential expenses resulting from the sudden responsibility of caring for a family member, and that the expense of purchasing health insurance during 2022, given the above would have caused her a deprivation of food and other necessities. (Exhibits 2, 2(a) and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that her income for 2022, \$23,977 was less than 300% of the federal poverty level, which for 2022 was \$38,640.00 for a single person. According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$57.99 per month. According to Table 4, Appellant, age and living 32 living in Norfolk County during the time she was being penalized for not having insurance, could have purchased insurance for \$290 per month. Individual coverage was not affordable through the individual market for the Appellant in 2022 (Schedule HC for 2022).

The next issue to consider is whether the Appellant had access to affordable employer health insurance("ESI") in 2022. The Appellant testified that she was not offered ESI. (Appellant's Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2022 is considered to be affordable if the employee's contribution for an individual plan is 9.61 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant did not have access to affordable ESI during the months she was being penalized. (Exhibit 1).

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

The Appellant's adjusted gross income was \$23,977. Her net take-home pay was approximately \$1,500 per month. Her monthly living expenses totaled \$1,580 per month. (Appellant's Testimony, see Pars. 3 and 8 above). Moreover, the Appellant adduced corroborating evidence of a Court eviction proceeding, and credible testimony regarding care of a family member contributing to the hardship which met the criteria under the regulations. Accordingly, I conclude that purchasing health insurance at the cost of \$57.99, in addition to her basic monthly necessary living expenses during 2022, would have caused the Appellant to experience a financial hardship. 956 CMR 6.08 (1) (b), (d),(3),(e) & (3). Thus, the Appellant's assessed tax penalty of three (3) months is waived entirely for these reasons.

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

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

PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

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Exhibit 4	Student Secure Medical Insurance Services Group Insurance Documentation, dated effective from August 2020, through June 30th of 2021.	3 pages
Exhibit 5	United Healthcare Insurance Card, dated August of 2020	1 page
Exhibit 6:	Vantage America Prescription Discount Card Information Sheet.	1 page
Exhibit 7:	Payment Receipt, dated 7/28/2020	
Exhibit 8:	June 12th, 2023 Correspondence and Accompanying Student Secure Insurance Documentation (Copies of previously provided documentation and Health Connector Documentation).	22 Pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 22 years old in 2021. Appellant filed his 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$168,098.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 878% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a AGC Partners, as an analyst and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. The Appellant was offered health insurance in 2021, by his employer, at an approximate monthly cost of \$300.00. (Appellant's Testimony)
7. The Appellant currently has Health Insurance Coverage, from Cigna, through his employer.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and

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premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.

9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$168,098.00 was deemed able to pay \$1,120.65 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 22 and living in Suffolk County, could have purchased private insurance for \$263.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof. (Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
14. The Appellant testified that, due to the financial burden accumulated following unemployment as a student in 2020, which was a consequence of the COVID-19 pandemic, he was unable to bear the cost of his employer's health insurance at a rate of \$300 per month in 2021. Furthermore, he conveyed that when his student insurance coverage ended in June 2021, securing new insurance did not hold immediate priority or urgent concern for him at that time. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to their testimony, having incurred a tax penalty for the same issue in 2020.

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

Appellant had no health insurance in 2021 that met minimum creditable coverage. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2021, by his employer, at an approximate monthly cost of \$300.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on his lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets

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minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$300.00 a month. An employer sponsored plan's coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income.

Appellant was deemed to be able to afford \$1,330.78 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent Appellant-employee's projected household modified adjusted gross income. The employer's offering was 2.14% of the employee's adjusted gross income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant had access to affordable healthcare coverage through their employer, they were not eligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 878% of the Federal Poverty Level, he is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an

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adjusted gross income of \$168,098.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$1,120.65 per month; according to Table 4, Appellant, who was 22 years old in 2021, lived in Suffolk County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$263.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$14,008.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$1,120.65 per month), the Appellant could have afforded private health insurance with a premium of \$263.00 per month. (2021 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellant is appealing involves the reality that he purchased HealthCare coverage, while a student, which he believed to be adequate but which in fact did not meet the state standard for minimum creditable coverage.

In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance. The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty. However, under certain circumstances, this penalty may be waived.

The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2. By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt from the mandate and will not be penalized.

The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty. This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty. Individuals who fail to have MCC during a tax year will face

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a penalty when they file their taxes. The Appellant knew this was possible in 2021, as he had faced a penalty in 2020. (Appellant’s Testimony).

Appellant implies in his written correspondence, dated June 9th, 2022, that he should be exempt from the mandate in light of his lack of familiarity with the Massachusetts tax system (“as an international student graduate (with no knowledge of the Massachusetts tax system)”). See Exhibit 3. This ignores the reality that each resident adult in Massachusetts, regardless of their education or experience with the Tax system, is required to maintain minimum creditable coverage per the law. Only those residents who can demonstrate hardship are eligible to receive a waiver for the penalty. It also ignores the Appellant’s testimony that he was penalized for the same issue in 2020.

Regulations at 956 CMR 6.08(1) outline considerations for determining whether a taxpayer experienced hardship, which may exempt them from the penalty. Hardship bases are similar to those for ConnectorCare premium waiver/reductions, including circumstances such as homelessness, significant unexpected increases in essential expenses, or situations where the cost of MCC would cause the taxpayer to experience a serious deprivation of food, shelter, clothing, or other necessities.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant failed to substantiate any claims of financial hardship experienced in 2021, and did not allege any severe deficiency of essentials such as food, shelter, or clothing. The focus of their testimony was on pre-existing debts from 2020, which they argued consumed the majority of their 2021 income. The Appellant contended that the cost of their employer's health insurance was prohibitive, leading him to opt for a less expensive plan, albeit one that did not satisfy minimum creditable coverage requirements.

The Appellant, in his testimony, sought to establish the precedence of pre-existing debts from 2020 as a majority consumer of his 2021 income, thereby leading to their choice of a less expensive health insurance plan. While this Hearing Officer acknowledges the impact such financial commitments may have on an individual's fiscal landscape, it is crucial to clarify that personal financial decisions pertaining to unsubstantiated debt payments do not automatically qualify as necessary expenditures under the parameters defined by the Commonwealth of Massachusetts.

Financial obligations resulting from decisions made in the past, particularly when

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those obligations relate to unspecified debts, necessitate further substantiation to validate their characterization as essential expenses. Without additional evidence elucidating why these debts were incurred, and further, corroborating evidence indicating they were initiated to cover costs fundamental to a basic standard of living, the claim lacks the requisite credibility. For instance, if such debts were procured to facilitate residency in a luxury apartment, as opposed to a more affordable dwelling that satisfies basic living standards, such expenditure would be considered discretionary rather than necessary.

The delineation of essential expenses is paramount to the Commonwealth's Individual Mandate law, ensuring that necessities vital for basic survival and wellbeing take precedence over other financial commitments. In light of these considerations, the Appellant's arguments pertaining to their debt obligations and the subsequent choice of an inadequate health insurance plan are respectfully noted, but without further substantiating evidence, cannot be adopted as the basis for qualifying these expenses as necessary.

Appellant did not present any detailed evidence pertaining to the magnitude of their debt, the size of their monthly repayments, or any specific information about their payment plans to manage said debt which could have allowed them to use their funds to purchase health insurance which met minimum creditable coverage requirements. Moreover, they did not provide any specific rationale for securing the loans in 2020 or specify if they were for necessary expenses, nor did they outline any preventive measures to avoid such borrowing in order to allow the appellant to have obtained appropriate health insurance.

Notably, the Appellant insisted during the hearing that they had furnished all necessary information in their written communication and had no further information to provide which might have shed light on the existence of an authentic financial hardship connected to essential expenses. Appellant also acknowledged in their testimony that when their health insurance, which lacked minimum creditable coverage, expired in June of 2021, the Appellant didn't view it as a priority to comply with the Individual mandate, which he was aware of, by obtaining new insurance.

Given the paucity of information, the Appellant's testimony and reasoning do not convincingly establish a case of financial hardship, particularly when their adjusted gross income for 2021 is taken into account.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

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PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 22, 2023 Decision Date: Tuesday, June 27, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 22, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeals Case Information from Schedule HC 1 page
- Exhibit 2: Appellant's Statement of Grounds for Appeal 2 Pages
- Exhibit 3 Correspondence from the Appellant 2 pages

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Exhibit 4	Criminal Docket Sheet, Docket No.: 2105CR000030	3 pages
Exhibit 5	Civil Docket, Docket No.: 2132SC001738	1 page
Exhibit 6:	Closing Disclosure Forms	2 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 45 years old in 2021. Appellant filed his 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$116,279.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 608% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as an IT Independent Contractor at Robert Half Technologies and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. The Appellant was offered health insurance in 2021, by his employer, at an approximate monthly cost of \$600.00. (Appellant's Testimony).
7. The Appellant currently has Health Insurance Coverage from the Health Connector.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant having no dependents, with an adjusted gross income of \$116,279.00, was deemed able to pay \$775.19 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 45 and living in Bristol County, could have purchased

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private insurance for \$336.00 per month.

- 10. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
- 11. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$2,100.00	<u>Car Insurance</u>	\$60.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$250.00	<u>Gas (Car)</u>	\$100.00	<u>Sewage/Water</u>	\$16.66
<u>Cable/Internet</u>	\$100.00	<u>Food</u>	\$1,250.00	<u>Homeowner's Insurance</u>	\$75.00
<u>Heat</u>	\$100.00	<u>Cell Phone</u>	\$60.00	<u>Car Repairs</u>	\$250.00
<u>Electricity</u>	\$165.00	<u>Household & Toiletries</u>	\$300.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$0.00	<u>Total:</u>	\$4,826.66

- 12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$9,689.92. His necessary expenses were determined to be \$4,826.66 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$2,551.43 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.
- 13. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof; and
 - b. During 2021, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you. Provide copies of insurance claim correspondence, reports, or other proof; and
 - c. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which

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your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
 - a. The appellant testified to experiencing flooding problems in the basement of his newly constructed home, which he attributed to the alleged negligence of his contractor. The appellant's assertion led him to file a lawsuit against his contractor in a small claims court in 2021, seeking compensation for these specific issues.
 - b. Furthermore, the appellant articulated additional problems encountered in his home, purportedly a consequence of the contractor's negligence. However, aside from the testimonial evidence provided by the appellant, no additional substantial evidence was presented to support these claims. The appellant's assertions with regards to the associated costs were not deemed credible based on the evidence provided.
15. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
16. Appellant testified his specific reasoning for appealing his tax penalty was that he could not afford any health insurance due to the disparity between his necessary expenses and income.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

Residents who do not obtain insurance are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to

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

Appellant had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2021, by his employer, at an approximate monthly cost of \$600.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$600.00 a month. An employer sponsored plan's coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$920.54 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent Appellant-employee's projected household modified adjusted gross income. The employer's offering was 6.19% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance

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premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant had access to affordable healthcare coverage through their employer, he was not eligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 608% of the Federal Poverty Level, he is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$116,279.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$775.19 per month; according to Table 4, Appellant, who was 45 years old in 2021, lived in Bristol County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$336.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$9,689.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$775.19 per month), the Appellant could have afforded private health insurance with a premium of \$336.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

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Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer and on the private market in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The appellant provided testimony that in 2021, he was obliged to vacate his apartment following the issuance of a restraining order against him. This restraining order resulted from a reported altercation with his roommate and the roommate's partner. The appellant confirmed that he was arrested due to this incident, necessitating the retention of a legal counsel for his defense against the resulting charges. Subsequent to these events, he testified that he was compelled to spend \$2,000 monthly on an Airbnb rental as he searched for a new permanent residence. This expenditure on his Airbnb rental is notably less than the cost he would go on to pay for his mortgage payment.

The appellant neither testified to nor indicated at any point that he was evicted from his apartment or became homeless. In contrast, evidence suggested that he had sufficient funds to cover his Airbnb rental, his search for a new home, and even a significant down payment of \$30,000 on a purchased property in 2021.

During the hearing, the appellant proposed that the money expended on his down payment and moving costs, relating to his home purchase, be categorized as necessary expenses. However, I did not concur with this categorization. Moreover, the appellant persistently contended throughout the hearing that he was unable to secure a suitable apartment for himself and his two dogs due to ongoing COVID-19 restrictions in 2021. This line of argument was not persuasive. The appellant stated that he was unable to find anything in Boston, but simultaneously disclosed that he was working remotely. Despite this, the appellant did not show any evidence of having sought rental properties outside Boston, even though he eventually purchased a single family home in Bristol county.

The appellant further asserted that the expenses stemming from delinquent tax payments from prior tax years - inclusive of the costs associated with employing a Certified Public Accountant, medical expenses for his two dogs, and other miscellaneous expenses - should be recognized as necessary expenses. I respectfully disagree with the appellant's proposition to categorize each of these expenses as necessary.

The appellant asserted that costs associated with his newly constructed home, particularly the unexpected expenses due to basement flooding, should be recognized as necessary. This situation was attributed to his contractor's alleged negligence. However, the appellant also stated that the problem remained largely unresolved, with only minimal repairs being carried out amid the ongoing lawsuit against the

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contractor, which was eventually resolved.

After careful consideration of the appellant's arguments, as the Hearing Officer, I find it necessary to respectfully decline to adopt the appellant's proposition that all the expenses delineated in their appeal should be characterized as necessary. The categorization of expenses as essential versus discretionary is not determined solely by the individual's perspective or preference, but rather in line with established regulations and definitions, which prioritize those that are vital for basic survival and wellbeing. Therefore, the appellant's view of what constitutes a necessary expense, while respected, cannot be fully endorsed in this context.

It's important to offer some clarification on the distinction between essential and discretionary expenses in the context of this appeal. The Commonwealth of Massachusetts has a long-standing Individual Mandate law requiring all adult residents to maintain adequate health insurance, if affordable, after accounting for necessary, or essential, expenses. These essential expenses traditionally include basic necessities such as food, shelter, and basic clothing, which are vital for a person's wellbeing and survival.

A downpayment on a home, costs associated with a lawsuit, pet's medical bills and food costs, or addressing an outstanding tax bill, are categorized as discretionary expenses, as they reflect individual choices rather than immediate necessities. Choosing to live in a particular city, having multiple pets, or failing to sufficiently plan financially, resulting in a large tax liability, are examples of personal decisions made by the appellant. Though consequential, they are not considered essential in the same way as basic sustenance requirements.

The requirement for health insurance coverage under the Massachusetts Individual Mandate law, however, is fundamental to both the individual and societal wellbeing. Ensuring that each resident has access to adequate healthcare is a critical component of public health policy. By protecting against unforeseen medical expenses, health insurance enables citizens to maintain their health and wellbeing, reduce potential future costs, and thereby contribute to the overall welfare of the Commonwealth.

Therefore, under the individual mandate, an appellant's obligation to maintain affordable health insurance is a priority over discretionary spending choices. This is because, in the broader context, health insurance serves a higher purpose in maintaining the health of the Commonwealth's residents and protecting them against unpredictable health emergencies. This duty remains even in light of the appellant's financial choices and subsequent obligations which, while significant, are not deemed as essential expenditures in the face of the law. Thus, the appellant's obligation under the law to obtain health insurance takes precedence over non-essential lifestyle choices or financial commitments.

Based on the nature of the expenses discussed in the appellant's testimony, they do

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not conform to the definition of essential or necessary expenses. These are costs that were borne out of a decision, rather than an absolute necessity for maintaining a standard of living.

Necessary Expenses

It is paramount to clarify what qualifies as a 'necessary expense'. Generally, a necessary expense pertains to costs essential for sustaining a basic standard of living, including housing costs (rent or mortgage, utilities, maintenance), food and nutrition-related expenses, health care costs (including medical, dental, vision expenses and insurance premiums), transportation costs (be it vehicle ownership or public transportation), basic clothing, necessary education or training fees, personal care items, and minimum debt payments.

The exact nature of what constitutes a necessary expense may vary based on individual circumstances, but the common thread lies in their indispensability for a basic standard of living. Having two dogs or purchasing a single family home, where the Appellant would naturally be responsible for repairs, are not necessary expenses in this regard. Necessary expenses are costs that, if eliminated, would significantly impact an individual's quality of life. In light of this definition, many of the expenses to which the appellant testified in this case do not qualify as essential or necessary expenses.

Basic Standard of Living

A 'basic standard of living' refers to the minimum level of resources and means necessary for an individual to meet their basic needs, ensuring health, safety, and wellbeing without undue hardship. This encompasses not only physical needs such as food, clothing, and shelter, but also access to necessary healthcare services, appropriate transportation, and the opportunity for personal development through education or training.

In terms of housing, a basic standard of living implies access to a secure and sanitary dwelling, inclusive of necessary utilities and maintenance. It does not extend to high-end or luxury housing choices. For food and nutrition, it represents a diet that provides the necessary nutrients for health, not necessarily inclusive of dining at high-end restaurants or purchasing gourmet items. Healthcare costs under this standard cover essential medical, dental, and vision expenses to maintain health and manage illnesses, as well as necessary insurance premiums.

Transportation costs in a basic standard of living could mean owning a vehicle if necessary, or using public transportation options, depending on the individual's circumstances. It includes the cost of basic clothing necessary for appropriate dressing but doesn't extend to luxury brands or non-essential fashion items. Necessary

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education or training fees are also part of this standard, as long as they're essential for maintaining or improving employment and aren't for unnecessary, extravagant courses. Personal care items that are essential for basic hygiene and grooming are included, while high-end personal care products aren't.

Lastly, a basic standard of living includes minimum debt payments that an individual is legally obligated to make. However, the repayment of excessive debts, or debts stemming from non-essential purchases or lifestyle choices, are not part of this standard. Overall, a basic standard of living aims to ensure that individuals have what they need to function and participate fully in everyday life, without delving into luxury or discretionary expenditures.

Appellant's Necessary Expenses and Credibility Issues

Given the circumstances, I do not find the appellant's classification of certain expenditures as necessary expenses credible. Furthermore, the appellant's accounting of many of his expenses proved challenging to validate due to a consistent pattern of inflating specific costs, the appellant's food costs for example, without adequate evidence to justify these above-average expenses commonly observed in similar hearings.

During the course of proceedings, the Appellant at one instance intimated that his monthly food expenditure, encompassing both his own personal and his dogs nutrition costs, approximated \$1,000 per month. However, when queried to specifically outline his own food expenses separate from the consumption costs of his two dogs, the Appellant demurred. Subsequently, he revised his initial estimate, articulating that his food expenditure was likely closer to \$2,000, later escalating this figure further to as high as \$4,000 per month.

When this extrapolated to an annual expenditure nearing \$30,000—a stark and significant expenditure—was pointed out to him, the Appellant acquiesced and reassessed his figure downwards. He conceded that a more accurate representation of his annual food expenses would likely approximate \$15,000, the sum that has been adopted for the purpose of assessing his food expenses in this document.

A Lack of Financial Hardship

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 completely waive his penalty for the months in question.

The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$4,826.66. Those expenses were less than his regular approximate monthly net income of approximately \$7,378.09, thereby making a private health

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insurance premium of \$336.00/month seemingly manageable.

While the approximate difference of \$2,551.43 between monthly income and expenses may not solve all financial concerns, it appears that paying \$336.00/month for health insurance wouldn't cause an undue hardship based on the available information.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2021. Appellant filed his 2021 Massachusetts tax return as a Single person with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$44,928.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 235% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Laborer at VMS Building and Restoration and in a Full Time capacity. (Appellant's Testimony). Appellant did experience a period of unemployment during 2021 and was only employed in his position from January-June. (Appellant's Testimony). Appellant further testified that he was only able to work in a part time capacity after losing his position as a Laborer, working on and off as a handy-man for the rest of the year.
5. Appellant was not offered health insurance by his employer during his full time employment. (Appellant's Testimony).
6. The Appellant does currently have Health Insurance as of May of 2023. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$44,928.00 was deemed able to pay \$157.25 per month for health insurance, or 4.20% of his income. According to Table 4, Appellant, age 27 and living in Norfolk County, could have purchased private insurance for \$263.00 per month.
9. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
10. In 2021, Appellant had the following monthly expenses for basic necessities:

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<u>Rent or Mortgage</u>	\$1,600.00	<u>Car Insurance</u>	\$120.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$200.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$130.00	<u>Food</u>	\$1,000.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$100.00	<u>Cell Phone</u>	\$80.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$100.00	<u>Household & Toiletries</u>	\$0.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$0.00	<u>Total:</u>	\$3,388.33

11. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,744.00. His necessary expenses were determined to be \$3,388.33 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$300.92 in his monthly financial situation when considering his Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2021, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you. Provide copies of insurance claim correspondence, reports, or other proof. (Testimony of Appellant, Exhibit 2).
13. Appellant indicated he did incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
15. The Appellant testified that a series of complex factors led to his inability to secure health insurance. These included financial hardships, which were primarily attributed to the challenges of homelessness, the financial fallout from a recent divorce, and the financial instability resulting from the loss of steady employment.

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ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was not aware of the individual mandate, according to his testimony.

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

Appellant had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant testified that he experienced periods of unemployment during the year 2021, and was employed during the following months: January-June (Appellant’s Testimony).

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

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Because the Appellant's employer did not offer healthcare coverage, for the purposes of this Appeal, I will assume such coverage was unavailable. I credit the Appellant's testimony that no employer based health care coverage was offered to him.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant cannot provide enough information to ascertain whether or not they had access to affordable healthcare coverage from their employer, I will for the purposes of this appeal assume that such coverage was unavailable and the Appellant, based on their income would have been eligible for a ConnectorCare plan, as their income is 234% of the Federal Poverty Level.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 235% of the Federal Poverty Level, he is ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$44,928.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$157.25 per month; according to Table 4, Appellant, who was 27 years old in 2021, lived in Norfolk County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$263.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,744.00 per month), tax filing status,

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place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$157.25 per month), private health insurance with a premium of \$263.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through ConnectorCare in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant had testified that in 2021 his statement of grounds for his appeal was that he incurred a human-caused event causing substantial household or personal damage to/for him. (Testimony of Appellant, Exhibit 2). It was later discovered that he was referring to his divorce from his ex-wife. (Appellant's Testimony). As such, this reason was deemed to be inaccurate and Appellant's grounds for appeal appear grounded in the theory that his expenses outweighed his income in 2021, making the purchase of health insurance unmanageable. (Appellant's Testimony).

With regards to his expenses, the Appellant has demonstrated a financial hardship. The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$3,388.33. Those expenses were more than his regular approximate monthly net income of approximately \$3,087.41, thereby making the payment of an additional private health insurance premium unmanageable.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: July 14, 2023

Decision Date: Wednesday, July 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 14, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	Health Connector Correspondence, dated August 25th,	1 page

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2021

Exhibit 5 Allstate Benefits Plan Rate Summary, dated, 4/1/2022 1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 34 years old in 2021. Appellant filed her 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$103,539.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 541% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Certified Nursing Assistant, Home Again Care, LLC. and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. Appellant testified that she was not offered health insurance by her employer.
7. The Appellant currently has Health Insurance Coverage from the Health Connector.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$103,539.00 was deemed able to pay \$690.26 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 34 and living in Middlesex County, could have purchased private insurance for \$268.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
11. The appellant, with an income significantly above the federal poverty level,

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does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2021 tax year.

12. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof; and During 2021, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to/for you. Provide copies of insurance claim correspondence, reports, or other proof.(Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
- 14.Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
15. The appellant was not offered health insurance coverage by her employer and did not experience any circumstances that would have made her eligible for a special enrollment period. (Appellant's Testimony). Additionally, she expressed confusion regarding the "waiver from the Office of Patient Protection" option and indicated that this is the reason she is asking for a waiver of the tax penalty. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

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mandate, according to their testimony.

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

Appellant had no health insurance in 2021. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. (Appellant’s Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2021. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Because the Appellant is unable to indicate the costs of their employer's healthcare coverage, or because the employer did not offer healthcare coverage, for the purposes of this Appeal, I will assume such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant cannot provide enough information to ascertain whether or not

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they had access to affordable healthcare coverage from their employer, I will for the purposes of this appeal assume that such coverage was unavailable and note that the Appellant would not be eligible for ConnectorCare due to their income being more than 400% of the Federal Poverty Limit.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 541% of the Federal Poverty Level, she is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$103,539.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$690.26 per month; according to Table 4, Appellant, who was 34 years old in 2021, lived in Middlesex County and filed her 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$268.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$8,628.25 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$690.26 per month), the Appellant could have afforded private health insurance with a premium of \$268.00 per month. (2021 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Appellant's Claims of Inequity

The appellant is attempting to argue that applying the affordability tables to them in the above reference tax year would have been inequitable. The appellant testified that they were not offered health insurance coverage by their employer and did not

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experience any circumstances that would have made them eligible for a special enrollment period. (Appellant's Testimony). Additionally, the Appellant expressed confusion regarding the "Waiver from the Office of Patient Protection" option discussed in their HealthConnector Correspondence (See Exhibit 4) and indicated that this is the reason she is asking for a waiver of the tax penalty. (Appellant's Testimony).

While I understand and appreciate the appellant's perspective, I disagree with their reasoning surrounding the claims for not applying the affordability tables to them. The appellant's confusion regarding the waiver offered by the Office of Patient Protection does not provide valid grounds for waiving the penalty. As a key principle, it is incumbent upon individuals to seek clarity in instances of confusion, particularly concerning matters of substantial consequence such as this. In this case, the appellant, as a responsible party, should have contacted the Health Connector to resolve any misunderstandings rather than opting for inaction.

Whilst I empathize with the appellant's experience, it is crucial to underscore the importance of proactive engagement in matters relating to personal obligations. A lack of understanding does not absolve an individual from their responsibilities, nor does it automatically entitle them to exemption from penalties. The system's integrity is predicated on the assumption that individuals will take necessary steps to comprehend their obligations and act accordingly. I therefore cannot endorse the waiver of her entire penalty under these circumstances.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through private insurance in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to completely waive their penalty for the months in question. Additionally, the Appellant did not indicate that they experienced financial hardship in their testimony at any point, nor did they indicate that this was the reason for their appeal.

Conclusion

The Appellant has failed to demonstrate that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). Nor was the appellant able to provide convincing evidence that applying the affordability tables to them would have been inequitable. I do however empathize with the Appellant insofar as this was her first year living in Massachusetts and do applaud her attempts at contacting the Health Connector and attempting to obtain insurance in August of 2021. Therefore, the Appellant's 12 month penalty is

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therefore modified to a six (6) month penalty.

Appellant should note that the partial waiver of her penalty is based upon the facts that I have determined to be true for her 2021 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old in 2021. Appellant filed her 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$30,092.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 162% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2021, as a Recruiter at Creative Cove, Inc. and in a Full Time capacity. (Appellant's Testimony). Appellant did experience a period of unemployment during 2021, and was only employed in their position from January-March. (Appellant's Testimony).
5. The Appellant does currently have Health Insurance as of July of 2023. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$30,092.00 was deemed able to pay \$74.90 per month for health insurance, or 2.90% of her income. According to Table 4, Appellant, age 26 and living in Middlesex County, could have purchased private insurance for \$263.00 per month.
8. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule HC for 2021).
9. In 2021, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$1,200.00	<u>Car Insurance</u>	\$85.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$200.00	<u>House Maintenance</u>	\$0.00

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<u>Cable/Internet</u>	\$70.00	<u>Food</u>	\$200.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$55.00	<u>Cell Phone</u>	\$35.00	<u>Mandatory Student Loans:</u>	\$785.00
<u>Electricity</u>	\$150.00	<u>Household & Toiletries</u>	\$50.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$20.00	<u>Total:</u>	\$2,850.00

10. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$2,507.67. Her necessary expenses were determined to be \$2,850.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$752.05 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2021. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
14. Appellant testified she could not afford any health insurance due to the disparity between her necessary expenses and income. (Appellant's Testimony).
15. The appellant further provided testimony asserting that she was compelled to fulfill payment obligations for private student loans, notwithstanding the suspension of payments for government student loans due to the impact of the COVID-19 pandemic (as stated in the appellant's testimony).
16. The Appellant provided testimony indicating that she possessed health

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insurance coverage in the year 2021, obtained via a group specializing in ancillary benefits. According to the Appellant's comprehension of the terms, this particular coverage failed to satisfy the minimum creditable coverage threshold and, as a result, did not fulfill the stipulations associated with the Commonwealth's individual mandate law. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was not aware of the individual mandate, according to their testimony, in the year 2021.

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

Appellant had no health insurance in 2021 that met minimum creditable coverage. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was not offered health insurance in 2021 by her employer. (Appellant's Testimony). The Appellant testified that they experienced periods of unemployment during the year 2021, and were employed during the following months: January-March (Appellant's Testimony). The Appellant was assessed a penalty of 12

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months based on their lack of coverage over 12 months. The penalty appears to have been levied in light of the Appellant's unemployment for 9 months and due to her prior employer not offering health insurance, as well as the appellant not having been able to obtain health care coverage that met minimum creditable coverage.

In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of their termination event. A Special Enrollment Period is a time outside of the open enrollment period that a person and their family have a right to sign up for health coverage through the Health Connector. Appellant may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage due to job loss.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Because the Appellant is unable to indicate the costs of their employer's healthcare coverage, or because the employer did not offer healthcare coverage, for the purposes of this Appeal, I will assume such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant testified they did not have access to affordable healthcare coverage from their employer, I will for the purposes of this appeal assume that such coverage was unavailable and the Appellant, based on their income would have been eligible for a ConnectorCare plan, as their income is 161% of the Federal Poverty Level.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be

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eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 162% of the Federal Poverty Level, she is ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$30,092.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$74.90 per month; according to Table 4, Appellant, who was 26 years old in 2021, lived in Middlesex County and filed her 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$263.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$2,507.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$74.90 per month), private health insurance with a premium of \$263.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through ConnectorCare in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated financial hardship. The appellant testified that in 2021 she incurred basic monthly expenses of approximately \$2,850.00. Those expenses were less than her regular approximate monthly net income of approximately \$2,097.95, thereby making a private health insurance premium of \$286.00/month unmanageable. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$752.05. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure each month for health insurance, especially when covering necessary expenses is already a struggle.

CONNECTOR APPEALS UNIT



Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of her penalty is based upon the facts that I have determined to be true for her 2021 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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

CONNECTOR APPEALS UNIT



expenses

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 52 years old in the beginning of 2021. Appellant filed his 2021 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2021 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2021 was \$47,862.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 352% of the Federal Poverty level and based on his income, if all other conditions were met, he may be eligible for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2021, the Appellant was employed as a Printer Operator at Fulfillment America, Inc., in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2021.
6. The Appellant was offered health insurance in 2021, by his employer, at an unspecified monthly cost. (Appellant's Testimony). Appellant could not identify the cost, but did admit he failed to sign up for his employer's health insurance plan as he believed it's cost would be more than he could afford. (Appellant's Testimony).
7. The Appellant does not currently have Health Insurance as of October of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. According to Table 3 of Schedule HC for 2021, The Appellant has no dependents, with an adjusted gross income of \$47,862.00 was deemed able to pay \$303.13 per month for health insurance, or 7.60% of his income. According to Table 4, Appellant, age 52 and living in Middlesex County, could have purchased private insurance for \$390.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2021 (Schedule

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HC for 2021).

11. In 2021, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$2,000.00	<u>Car Insurance</u>	\$58.00	<u>Medical/Dental</u>	\$25.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$528.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$120.00	<u>Food</u>	\$800.00		
<u>Heat</u>	\$75.00	<u>Cell Phone</u>	\$20.00		
<u>Electricity</u>	\$125.00	<u>Household & Toiletries</u>	\$50.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$3,951.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,988.50. His necessary expenses were determined to be \$3,951.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$685.10 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2021 tax year.

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

- a. During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2021 (Testimony of Appellant).

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

CONNECTOR APPEALS UNIT



15. Appellant did receive shut-off notices for basic utilities. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant).
16. In the matter at hand, the Appellant has asserted that during the calendar year of 2021, his financial situation—specifically, the interplay between his income and expenses—rendered him unable to secure health insurance coverage.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2021 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2021. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2021, by his employer, at an unspecified monthly cost. (Appellant's Testimony) The Appellant was employed for the

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full year and did not have any job disruptions during the year 2021. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

An employer sponsored plan's coverage is affordable for plan year 2021 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$378.91 per month. Based on the testimony of the Appellant, it appears that although they were employed and offered health insurance by their employer, they did not take the necessary steps required by law to sign up for it or engage with their employer to ensure they were enrolled.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). Based on the testimony of the Appellant, it appears that although they were employed and offered health insurance by their employer, the Appellant did not take the necessary steps required by law to sign up for it or engage with their employer to ensure they were enrolled. Because the Appellant failed to show reasonable efforts to sign up for the health insurance offered by their employer as required by law, it must be assumed they were offered affordable coverage. As a result, they are ineligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). The Appellant is not eligible for Advance

CONNECTOR APPEALS UNIT



Premium Tax Credits as they are presumed to have access to affordable employer health coverage.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2021. According to Tables 3 and 4 of the HC schedule for 2021, Appellant, with an adjusted gross income of \$47,862.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$303.13 per month; according to Table 4, Appellant, who was 52 years old in 2021, lived in Middlesex County and filed his 2021 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$390.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,988.50 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$303.13 per month), private health insurance with a premium of \$390.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer as it must be assumed they were offered affordable coverage, in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship in the tax year 2021. The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$3,951.00. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$685.10 per month. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

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Appellant should note that the waiver of his penalty is based upon the facts that I have determined to be true for his 2021 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

CONNECTOR APPEALS UNIT



FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: July 18, 2023

Decision Date: Wednesday, July 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 18, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 1 page |

CONNECTOR APPEALS UNIT



- | | | |
|-----------|--|---------|
| Exhibit 4 | Lending Club Monthly Payment Summaries for February; March; April; May; June 2022. | 5 pages |
| Exhibit 5 | Verizon Phone Bill Payments (Noted Paid on Behalf of Mother in writing on the Bill) for February; March; April; May; June. | 5 pages |

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 30 years old in 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$43,765.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 322% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2022, as a Salesperson at Tip Links Inc., d/b/a Fetcher and in a Full Time capacity. (Appellant's Testimony). Appellant did experience a period of unemployment during 2022, and was only employed in their position from June through November in 2022. (Appellant's Testimony). Appellant was unemployed from January through May and then again in December of 2022.
5. The Appellant was offered health insurance in 2022, by his employer, while employed, at an approximate monthly cost of \$180.00. (Appellant's Testimony)
6. The Appellant does not currently have Health Insurance as of July of 2023. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$43,765.00 was deemed able to pay \$271.71 per month for health insurance, or 7.45% of his income. According to Table 4, Appellant, age 30 and living in Suffolk County, could have purchased

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private insurance for \$277.00 per month.

9. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

10. In 2022, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$250.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$20.00	<u>Food</u>	\$300.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$170.00	<u>Public Transportation:</u>	\$50.00
<u>Electricity</u>	\$0.00	<u>Household & Toiletries</u>	\$30.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$920.00

11. Appellant testified that he reduced his overall expenses in 2022, in light of the periods of unemployment he faced as described above, by moving out of his apartment and back into his family’s home. (Appellant’s Testimony).

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,647.08. His necessary expenses were determined to be \$920.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$2,096.66 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

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

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation. (Testimony of Appellant, Exhibit 2).

14. 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

CONNECTOR APPEALS UNIT



providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
16. Appellant testified he could not afford any health insurance due to the disparity between his necessary expenses and income.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had health insurance for 5 month(s) in 2022. He has been assessed a tax penalty for 3 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, while he was employed, at an approximate monthly cost of \$180.00. (Appellant's Testimony) The

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Appellant testified that he experienced periods of unemployment during the year 2022, and was employed during the following months: June through November in 2022 (Appellant's Testimony). The Appellant was assessed a penalty of 3 months based on their lack of coverage over 6 months.

The penalty appears to have been levied in light of the Appellant's unemployment for 6 months. In light of the lack of coverage stemming from the Appellant's unemployment, the Appellant would have then become eligible for a Special Enrollment Period and could have contacted the Health Connector to obtain Health Insurance within 60 days of their termination event. A Special Enrollment Period is a time outside of the open enrollment period that you and your family have a right to sign up for health coverage through the Health Connector. You may qualify for a special enrollment period of 60 days following certain qualifying events that involve a change in family status (for example, marriage or birth of a child) or loss of other health coverage in light of a job loss, as in this instance.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$180.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$346.47 per month.

The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent Appellant-employee's projected household modified adjusted gross income. The employer's offering was 4.94% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

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Throughout distinct periods of the year, specifically from June to November, the Appellant was granted access to cost-effective healthcare coverage via their employment. Consequently, he was deemed ineligible for ConnectorCare benefits during these months. However, in the span from January to May, the Appellant held the capacity to register for ConnectorCare benefits during the Open Enrollment phase, which was prior to their employment commencement in June.

Furthermore, the Appellant retained the option to apply for ConnectorCare, attributable to a shift in their circumstances after their employment termination in December. This could be done either via the Special Enrollment Period, or subsequently when the Open Enrollment phase was initiated again in the subsequent calendar year. It's essential to note that these options offer a pathway to healthcare coverage when the standard employment-based route is not available.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 322% of the Federal Poverty Level, he is ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$43,765.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$271.71 per month; according to Table 4, Appellant, who was 30 years old in 2022, lived in Suffolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,647.08 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$271.71 per month), private health insurance with a premium of \$277.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to completely waive their penalty for the months in question.

The appellant testified that in 2022 he incurred basic monthly expenses of approximately \$920.00. Those expenses were less than the regular approximate monthly net income of approximately \$3,016.66, thereby making a health insurance premium seemingly manageable. While the approximate difference of \$2,096.66 between monthly income and expenses may not solve all financial concerns, it appears that paying for health insurance wouldn't cause an undue hardship based on the available information.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 3 month penalty is therefore upheld.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

CONNECTOR APPEALS UNIT



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

Hearing Officer

cc. Connector Appeals Unit

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

CONNECTOR APPEALS UNIT



FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: July 18, 2023

Decision Date: Thursday, July 27, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on July 18, 2023. The procedures to be followed during the hearing were reviewed with Appellant. was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 1 page |

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Exhibit 4	City of Boston Pay Stubs	4 pages
Exhibit 5	City of Revere Pay Stubs	9 pages
Exhibit 6:	MassHealth Eligibility Statement, Application Date September 25th, 2022.	1 page
Exhibit 7:	Offer Letter from Revere Public Schools, dated October 25th, 2022.	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old in 2022. Appellant filed her 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1). Appellant moved into Massachusetts, from California, beginning in July of 2022 and lived there through the end of the year. (Appellant's Testimony).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$61,718.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 454% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE for Subsidized ConnectorCare.
4. The Appellant was employed in 2022, as a Substitute Teacher at Boston Public Schools and in a Full Time capacity. (Appellant's Testimony). Appellant began her position in August of 2021.
5. Appellant was not offered health insurance by her employer during her employment with the City of Boston. (Appellant's Testimony).
6. Appellant took a new job, as a Full Time English Teacher, with Revere Public Schools in October of 2022 and worked there through the end of the year. This employer did offer health insurance after a probationary period. (Appellant's Testimony). This Health Insurance was set to begin on January 1st, 2023. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of July of 2023 via her new employer in California, where she moved back to in June of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and

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premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.

9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$61,718.00 was deemed able to pay \$411.45 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 26 and living in Suffolk County, could have purchased private insurance for \$277.00 per month.
10. Appellant’s earnings while in Massachusetts, between her two positions in the Boston and Revere Public School system were approximately \$26,965.28. (Appellant’s Testimony and Exhibits 4 and 5). This was over a six month period of her residency between July and the end of the year. (Appellant’s Testimony).
11. Appellant applied for MassHealth on or around September of 2023, self reporting an income which was 93.17% of the Federal Poverty Level and was found to be not Eligible in light of Proof of Residency Requirements. (Exhibit 6).
12. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
13. In 2022, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$1,650.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$60.00	<u>Food</u>	\$400.00	<u>Credit Cards</u>	
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$90.00	<u>Other:</u>	\$44.00
<u>Electricity</u>	\$0.00	<u>Household & Toiletries</u>	\$80.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$0.00	<u>Total:</u>	\$2,324.00

14. Upon examining the appellant's testimony, it was ascertained that her gross monthly income while residing in Massachusetts was \$4,494.16. Her necessary expenses were determined to be \$2,324.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of around \$1,400.00 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

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15. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
16. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
17. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
18. In the initial phase of the appeal process, the Appellant did not specify a particular ground for the appeal (as per the Appellant's Testimony). Upon further inquiry, the Appellant articulated that the appeal's basis was rooted in her belief that, given her income during her tenure at the Boston Public School system, she was unable to afford health insurance (Appellant's Testimony).
19. Additionally, the Appellant provided further clarification by stating that upon transitioning to the Revere public school system, health insurance was indeed offered to her. However, it is important to note that the policy stipulated this coverage would only become accessible following the conclusion of a mandatory 90-day probationary period (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts The Department of Revenue for 2022 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. From her testimony it was not clear whether the Appellant was aware of the individual mandate or not upon her arrival in Massachusetts. (Appellant's Testimony).

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the

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

Appellant had no health insurance in 2022. has been assessed a tax penalty for 3 months, based on her residency in Massachusetts for six (6) months (July through December). Appellant appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer while working for the Boston Public Schools after arriving in Massachusetts in July of 2022. (Appellant's Testimony). The Appellant was offered health insurance from her second employer, after a 90 day probationary period, which was scheduled to begin on or around January 1st, 2023.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, she was not offered health insurance by her employer while employed by the Boston Public School System. I also find that her switch to the Revere public school system in October of 2022 did provide her access to employer sponsored health coverage, but only after the new year began, after she completed a probationary period. Because of this, the appellant did not have access to Affordable Health Care from her employer during 2022 while she resided in Massachusetts.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to

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affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

I will for the purposes of this appeal assume that employer sponsored coverage was unavailable and the Appellant, based on her income, would have been eligible for a ConnectorCare plan, as their income is 454% of the Federal Poverty Level.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 454% of the Federal Poverty Level, is ruled to be **INELIGIBLE** for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was **AFFORDABLE** for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$61,718.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$411.45 per month; according to Table 4, Appellant, who was 26 years old in 2022, lived in Suffolk County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Even though not mandated by statutory requirement, an analysis of the appellant's income during her six-month residency in Massachusetts suggests that she maintained the financial capability to afford private insurance during this period. As testified by the appellant, she accrued an income of \$26,965.28 from her two separate employments in Massachusetts (referenced in Appellant's Testimony and Exhibits 4 and 5).

This income, when extrapolated for an entire year, yields an annual salary of \$53,930.56, comparable to the reported AGI of \$61,718.00. Utilizing this yearly salary to evaluate affordability brings about an alteration in what the appellant could reasonably afford. Her affordability standards are thereby adjusted from 8.00% of her

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income down to 7.60%. This adjustment then results in an affordable monthly premium of \$341.56, still exceeding the private market's rate of \$277.00 per month, as mentioned previously.

In light of the Appellant's yearly gross income (\$5,143.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$411.45 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health insurance through any other government-sponsored program. Appellant was denied eligibility for MassHealth because of proof of residency issues. (See Exhibit 6).

Financial Hardship Analysis

In evaluating the Appellant's situation in 2022, it is noted that affordable insurance through ConnectorCare or the private market was accessible. Consequently, we must ascertain whether the Appellant encountered a financial hardship in accordance with 956 CMR 6.08 (1).

While we empathize with the Appellant's financial circumstances, the evidence presented does not clearly illustrate a case of financial hardship. The Appellant's disclosed monthly expenses in 2022 amounted to approximately \$2,324.00, which is less than their monthly net income of approximately \$3,763.36. This leaves a surplus of approximately \$1,421.36 after necessary expenses. Under these conditions, a private health insurance premium of \$277.00/month appears to be within the Appellant's financial capacity.

Unfortunately the reality of the evidence presented by the Appellant is that it appears, based on her income and her expenses, her determination that she was unable to afford health insurance was inaccurate and therefore, no financial hardship has been established based on her exhibits and testimony.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 3 month penalty is therefore upheld.

PENALTY ASSESSED

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Number of Months Appealed: 3

Number of Months Assessed: 3

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 59 years old in 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Hampden County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$43,136.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 317% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2022, as a Licensed Electrician at Trade Source, Inc., and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$260.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of August of 2023, through his current employer. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$43,136.00 was deemed able to pay \$267.80 per month for health insurance, or 0.0745 of his income. According to Table 4, Appellant, age 59 and living in Hampden County, could have purchased private insurance for \$466.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities:

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<u>Rent or Mortgage</u>	\$880.00	<u>Car Insurance</u>	\$138.00	<u>Medical/Dental</u>	\$40.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$800.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$400.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$60.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$0.00	<u>Household & Toiletries</u>	\$50.00		
<u>Car</u>	\$770.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$3,238.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,594.67. His necessary expenses were determined to be \$3,238.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$259.60 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. No reason was specifically marked by the Appellant on his Statement of Grounds. (Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
16. The appellant stated that early in the year, he tried to enroll in his employer's health insurance plan. His employer deducted \$59 from his paycheck weekly for two weeks. He was informed at signup that this plan wouldn't meet Massachusetts' minimum coverage standards. (Appellant's Testimony).
17. After two weeks and discussions with his human resources department, the appellant chose to decline the insurance because he would face state penalties regardless of his payments. (Appellant's Testimony).
18. The appellant then attempted to use the Health Connector's website to sign

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up for coverage, with his sister's help, but found it confusing. (Appellant's Testimony). He was also unable to get help over the phone. Lastly, the appellant was not aware of Health Connector offices in his home county of Hampden that could have offered assistance and did not become aware of them until receiving correspondence from the Health Connector in 2023 relating to his tax penalty. (Appellant's Testimony).

19. Appellant then ceased attempting to obtain health insurance due to his inability to work with the Health Connector. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$260.00. (Appellant's Testimony). The Appellant was

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employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$260.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$341.49 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent

Appellant-employee's projected household modified adjusted gross income. The employer's offering was 7.23% of the employee's income.

Minimum Creditable Coverage Standards

The Appellant testified that his employer informed him that the healthcare coverage they offered would not meet Massachusetts' Minimum Creditable Coverage requirements.

The clear reasoning as to why the Appellant is appealing involves the reality that he initially was given HealthCare coverage through his employer which did not meet the state standard for minimum creditable coverage. In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance.

The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty. However, under certain circumstances, this penalty may be waived.

The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2. By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt

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from the mandate and will not be penalized. The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty. This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty.

Individuals who fail to have MCC during a tax year will face a penalty when they file their taxes. Regulations at 956 CMR 6.08(1) outline considerations for determining whether a taxpayer experienced hardship, which may exempt them from the penalty. Hardship bases are similar to those for ConnectorCare premium waiver/reductions, including circumstances such as homelessness, significant unexpected increases in essential expenses, or situations where the cost of MCC would cause the taxpayer to experience a serious deprivation of food, shelter, clothing, or other necessities.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant had access to affordable healthcare coverage through their employer, they were not eligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 317% of the Federal Poverty Level, he is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$43,136.00, was deemed not to have been able to afford

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health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$267.80 per month; according to Table 4, Appellant, who was 59 years old in 2022, lived in Hampden County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$466.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,594.67 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$267.80 per month), private health insurance with a premium of \$466.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated financial hardship. The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$3,238.00. Those expenses were less than the regular approximate monthly net income of approximately \$2,978.40, thereby making a private health insurance premium of \$466.00/month for private insurance which would have met the MCC requirements that his employer's insurance apparently did not, unmanageable. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$259.60. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure of \$466.00 each month for health insurance, especially when covering necessary expenses is already a struggle.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

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

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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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: August 4, 2023

Decision Date: Friday, August 25, 2023

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 4, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 1 page |

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 26 years old in 2022. Appellant filed his 2022 Massachusetts tax return as Head of Household with 1 dependent claim (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$47,945.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 262% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for ConnectorCare.
4. The Appellant was employed in 2022, as a Plating Operator at Stellar Industries, Inc., and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer.
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has 1 dependent, with an adjusted gross income of \$47,945.00 was deemed able to pay \$199.77 per month for health insurance, or 5.00% of his income. According to Table 4, Appellant, age 26 and living in Worcester County, could have purchased private insurance for \$716.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities:

<u>Rent or</u>	\$0.00	<u>Car</u>	\$220.00	<u>Medical/Dental</u>	\$0.00
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<u>Mortgage</u>		<u>Insurance</u>			
<u>Property Taxes</u>	\$184.00	<u>Gas (Car)</u>	\$352.00	<u>House Maintenance</u>	\$100.00
<u>Cable/Internet</u>	\$120.00	<u>Food</u>	\$1,000.00	<u>Credit Cards</u>	
<u>Heat</u>	\$142.00	<u>Cell Phone</u>	\$100.00	<u>Other:</u>	\$54.00
<u>Electricity</u>	\$200.00	<u>Household & Toiletries</u>	\$100.00		
<u>Car</u>	\$150.00	<u>Clothing</u>	\$10.00	<u>Total:</u>	\$2,757.00

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$3,995.42. His necessary expenses were determined to be \$2,757.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$518.11 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof;(Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities (Testimony of Appellant).
16. The appellant provided testimony that from January 2022, his employer did not offer health insurance. (Appellant's Testimony). Appellant sought coverage through the Health Connector website, choosing the most affordable option, Convergent Insurance Company, in April 2022. This plan was maintained for

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only one month. Upon visiting his primary care physician, the appellant discovered that his chosen insurance did not cover the visit, prompting him to terminate the policy. (Appellant's Testimony). Appellant expressed feelings of having been misled by the Health Connector, resulting in his reluctance to further engage with their services. Finally, he returned to his employers to inquire about potential health coverage options. However, his inquiry was met with a negative response. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on

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their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$379.56 per month. Because the Appellant is unable to indicate the costs of their employer's healthcare coverage, or because the employer did not offer healthcare coverage, for the purposes of this Appeal, I will assume such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant cannot provide enough information to ascertain whether or not they had access to affordable healthcare coverage from their employer, I will for the purposes of this appeal assume that such coverage was unavailable and the Appellant, based on their income would have been eligible for a ConnectorCare plan, as their income is 261% of the Federal Poverty Level.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

Because the Appellant's Income was 262% of the Federal Poverty Level, he is ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

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Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$47,945.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$199.77 per month; according to Table 4, Appellant, who was 26 years old in 2022, lived in Worcester County and filed his 2022 Massachusetts taxes as a Head of Household with 1 dependents, would have had to pay \$716.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,995.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$199.77 per month), private health insurance with a premium of \$716.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through ConnectorCare in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to completely waive their penalty for the months in question. The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$2,757.00.

Those expenses were less than the regular approximate monthly net income of approximately \$3,275.11, thereby making a private health insurance premium of \$716.00/month unmanageable. However, the appellant was eligible for subsidized coverage under Connector Care, but he was unable to use the Health Connector's website to discover this option. His choice of insurance, which apparently did not meet minimum creditable coverage, led to him becoming disillusioned with the Health Connector website, as he testified. However, it was the appellant's responsibility to deal with these administrative issues.

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The Appellant should have contacted the Health Connector and inquired about why his insurance didn't cover his Primary Care Physician visit, as he testified. It's his duty under the mandate to have appropriate coverage, not to simply give up or ignore the issue that he alleges was created by the Health Connector, for which no other evidence was provided.

I find it improbable that the Health Connector website did not offer subsidized plans through their online portal, but assuming that was the case, it was the duty of the appellant to resolve his issues with his substandard insurance, as he described it, and figure out how he could have met his duty to maintain health insurance.

I find it more probable, based on the Appellant's testimony, that he failed to adequately investigate his options on the Health Connector's website and simply chose an option that he did not fully understand or verify would provide him the type of coverage the mandate required. I cannot say whether this was a design issue with the website or an issue where the Appellant failed to adequately and reasonably investigate his options on the site, as there was no evidence provided to clarify those issues.

Given the appellant's apparent issues with the Health Connector website, I find it appropriate to reduce the appellant's 12-month penalty to a six (6) month penalty.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e).

However, given the apparent issues with the Health Connector website and the lack of clarity regarding whether the Appellant's failure to find appropriate coverage was due to a design issue with the website or a failure on his part to adequately investigate his options, the Appellant's 12-month penalty is reduced to a six (6) month penalty.

The Appellant should not expect a similar reduction of his penalty in the future. The reduction in this case was granted based on the specific circumstances of this issue at this particular time. It is incumbent upon the Appellant to ensure that he fully understands and complies with the requirements of the mandate going forward, and any future failures to do so may not receive the same consideration.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: August 4, 2023

Decision Date: Friday, August 25, 2023

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 4, 2023. The procedures to be followed during the hearing were reviewed with Appellant. He was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 1 page |

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Exhibit 4 A Tufts Health Plan Member ID Card, identifying the Appellant with a Member Number (last 4 digits 9901)

1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 46 years old in 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$108,479.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 798% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. In 2022, the Appellant was employed as a Truck Driver for Walsh Contracting, Inc., and in a Full Time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by his employer. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony)
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$108,479.00 was deemed able to pay \$723.19 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 46 and living in Norfolk County, could have purchased private insurance for \$364.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

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11. The appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. Instead, they challenge the tax penalty by questioning the equity of the affordability tables' application in light of their particular circumstances in the 2022 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation; and
 - b. During 2022, you purchased health insurance that did not meet minimum creditable coverage standards, because that is what your employer offered, and you felt your circumstances prevented you from buying other insurance that met the requirements.(Testimony of Appellant, Exhibit 2).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant).
- 14.Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The appellant recounted that in February or March of 2022, he made attempts to acquire health insurance via the Health Connector's website. However, he was notified that the open enrollment period had already passed. (Appellant's Testimony).
- 16.Following this, the appellant sought to access health insurance in the private market but was once again informed that he was ineligible due to the missed open enrollment period. (Appellant's Testimony).
17. The record includes documentation provided by the appellant, showing he contacted the Health Connector's Appeals office via email. (Exhibit 3). His aim was to request a letter acknowledging special circumstances, which would permit a special enrollment period. However, this effort did not result in receiving such a letter. (Appellant's Testimony).

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18. The appellant further testified that his inability to secure this letter resulted in his failure to obtain coverage.
19. During the hearing, the appellant did not mention any specific special circumstances that could have granted him the special enrollment period. (Appellant's Testimony). Instead, he communicated that despite his best efforts to enroll, he was unsuccessful due to his late application and the apparent absence of special circumstances. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by his employer. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.

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(Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford \$858.79 per month.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will assume such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant cannot provide enough information to ascertain whether or not they had access to affordable healthcare coverage from their employer, I will for the purposes of this appeal assume that such coverage was unavailable and note that the Appellant would not be eligible for ConnectorCare due to their income being more than 400% of the Federal Poverty Limit.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

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Because the Appellant's Income was 798% of the Federal Poverty Level, he is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$108,479.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$723.19 per month; according to Table 4, Appellant, who was 46 years old in 2022, lived in Norfolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$364.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$9,039.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$723.19 per month), the Appellant could have afforded private health insurance with a premium of \$364.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Appellant's Claims of Inequity

After hearing his testimony it is clear that the appellant's argument rests on the premise that applying the standard affordability tables to him for the tax year in question would be unjust. However, the circumstances presented in his testimony do not align with this assertion.

He outlined his attempts to secure health insurance early in 2022 via the Health Connector's website, and later through private insurers, only to discover that the open enrollment period had expired in both instances. The appellant's proactive approach was evident through his contact with the Health Connector's Appeals office, where he requested a special circumstances letter to allow late enrollment. Despite these efforts, he did not receive the requested letter. The appellant then noted his subsequent failure to obtain coverage, with the primary obstacle being the lack of this crucial letter.

Yet, during the hearing, the appellant did not define or elaborate on any specific special circumstances that would warrant a special enrollment period. He recognized his delayed application and the lack of qualifying special circumstances as factors

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impeding his enrollment, despite his intent to comply with the requirements.

The discrepancy in the appellant's reasoning arises from the nature of his argument against applying the affordability tables. His own testimony confirms that the missed enrollment was not due to any special circumstances, but simply a matter of timing. Furthermore, he did not present any compelling reasons that would validate the need for a special enrollment period in 2022, specific to his situation.

Significantly, the appellant conceded prior experience with the health insurance process. He was aware of the potential financial consequences, including tax penalties, if he failed to secure health insurance in 2022. This previous familiarity with the system underscores the fact that the implications of not meeting the enrollment deadline were known to him.

Therefore, considering all the evidence at hand, it appears that the appellant's failure to secure affordable health insurance is more accurately attributed to a lack of timely planning on his part, rather than any extenuating circumstances. As such, the application of the standard affordability tables in his case would be both appropriate and equitable.

It is incumbent upon the appellant to ensure he adheres to the stipulations of G.L. c. 111M, § 2, colloquially known as the "individual mandate." This legislation mandates that every adult Massachusetts resident maintain insurance coverage as long as it's deemed affordable according to the schedule set forth by the board of directors for the Commonwealth Health Insurance Connector Authority. The appellant's own testimony affirms his awareness of this mandate.

The absence of an employer-provided health insurance option does not absolve the appellant of his obligation to fulfill this mandate. Rather, the onus is on him to actively seek and enroll in a qualifying health insurance plan, independent of his employment circumstances.

Failure to comply with the individual mandate results in a tax penalty for each month the individual remains without the required health insurance coverage. The law allows for a three-month grace period to facilitate the acquisition of health insurance coverage or the transition between policies. However, no claims of transitioning between policies were presented in the appellant's case.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through private insurance in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

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The regulations of the Connector permit a waiver of the tax penalty in instances of proven financial hardship, as outlined in 956 CMR 6.08. Yet, the appellant did not make a claim of financial hardship during the hearing, nor did he present any supporting evidence when expressly asked. Consequently, his failure to meet the requirements of the individual mandate, given his acknowledged awareness and lack of any proven financial hardship, further supports the appropriateness of applying the standard affordability tables.

Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: August 4, 2023

Decision Date: Friday, August 25, 2023

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 4, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	Paystub from Lifetime, dated 7/24/22	1 page

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Exhibit 5	Paystub from Lifetime, dated 2/12/2023	1 page
Exhibit 6:	Apartment Lease Contract, dated 3/10/21	4 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 28 years old in 2022. Appellant filed her 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$61,449.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 452% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE for ConnectorCare.
4. In 2022, the Appellant was employed as a Spa Manager for Lifetime Fitness, Inc. (January-September) in a Part-Time capacity. (Appellant's Testimony). Later in 2022, the Appellant transitioned roles at the same company, beginning work as a Massage Therapist for Lifetime Fitness, Inc., also in a Part-Time Capacity (September through the end of year). (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. Appellant was not offered health insurance by her employer.
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$61,449.00 was deemed able to pay \$409.66 per month for health insurance, or 0.08 of her income. According to Table 4, Appellant, age 28 and living in Norfolk County, could have purchased private insurance for \$277.00 per month.

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10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

11. In 2022, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$1,684.00	<u>Car Insurance</u>	\$238.00	<u>Medical/Dental</u>	\$11.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$120.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$400.00	<u>Credit Cards</u>	
<u>Gas</u>	\$20.00	<u>Cell Phone</u>	\$90.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$110.00	<u>Household & Toiletries</u>	\$100.00		
<u>Car</u>	\$413.00	<u>Clothing</u>	\$20.00	<u>Total:</u>	\$3,236.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$5,120.75. Her necessary expenses were determined to be \$3,236.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,104.01 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

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

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

15. Appellant did not fall more than thirty days behind in rent payments in 2022.

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Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant).

16. When asked what steps the Appellant took to obtain health insurance in 2022, Appellant testified she did not take any steps as it was not a priority for her at the time. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. The Appellant was employed for the full year and did not have any job disruptions, resulting in unemployment, during the year 2022. (Appellant's Testimony). The Appellant was

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assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford \$486.47 per month.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will assume such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

Because the Appellant cannot provide enough information to ascertain whether or not they had access to affordable healthcare coverage from their employer, I will for the purposes of this appeal assume that such coverage was unavailable and note that the Appellant would not be eligible for ConnectorCare due to their income being more than 400% of the Federal Poverty Limit.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)). Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1).

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Because the Appellant's Income was 452% of the Federal Poverty Level, she is ruled to be INELIGIBLE for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$61,449.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$409.66 per month; according to Table 4, Appellant, who was 28 years old in 2022, lived in Norfolk County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$5,120.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$409.66 per month), the Appellant could have afforded private health insurance with a premium of \$277.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through private insurance in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish that they experienced a financial hardship as defined by law so as to completely waive their penalty for the months in question.

The appellant testified that in 2021 they incurred basic monthly expenses of approximately \$3,236.00. Those expenses were less than the regular approximate monthly net income of approximately \$4,340.01, thereby making a private health insurance premium of \$277.00/month seemingly manageable.

While the approximate difference of \$1,104.01 between monthly income and expenses may not solve all financial concerns, it appears that paying \$277.00/month for health insurance wouldn't cause an undue hardship based on the available information.

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Conclusion

The Appellant has not demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 24 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$38,001.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 280% of the Federal Poverty level and based on his income, if all other conditions were met, he would be ELIGIBLE for Plan Type 3B (250.1-300% FPL) under ConnectorCare.
4. In 2022, the Appellant was employed as a Full Time Clerk at Stop and Shop at Full Time. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant could not provide or estimate the cost of his employer's sponsored health plan at the Administrative hearing. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony)
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$38,001.00 was deemed able to pay \$158.34 per month for health insurance, or 5.00% of his income. According to Table 4, Appellant, age 24 and living in Essex County, could have purchased private insurance for \$277.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example,

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because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof;(Testimony of Appellant, Exhibit 2).

12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. In the matter under review, the Appellant testified that he was promoted to a full-time clerk position at Stop & Shop in 2021. He further stated that he had been informed by a colleague that his pre-existing insurance coverage would continue into his new role. (Appellant's Testimony).
15. Despite this, the Appellant indicated that he never received any formal documentation from either his employer or the insurance provider to confirm that he indeed had active insurance coverage for the year 2022. (Appellant's Testimony).
16. The Appellant expressed confusion about the status of his insurance coverage and was uncertain whether insurance premiums were being deducted from his 2022 paychecks. (Appellant's Testimony). Appellant testified that he received direct deposit and therefore was unfamiliar with the information on his paycheck and found some of the information contained on his online paystub confusing. (Appellant's Testimony).
17. It was not until the Appellant began preparing his tax documents in 2023 that he became aware of the absence of health insurance coverage.
18. The Appellant also testified that he found the entire process of obtaining and verifying insurance coverage to be confusing. (Appellant's Testimony). He expressed a lack of confidence in his ability to understand the requisite information that would confirm his insurance status. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant could not provide or estimate the cost of his employer’s sponsored health plan at the Administrative hearing. (Appellant’s Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on his lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified that he was offered healthcare coverage by his employer for a

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monthly amount he is unaware of.

An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$300.84 per month. During the hearing, the Appellant noted that their employer does offer a health coverage option. However, no substantive information was provided about the cost associated with this program. In light of the Appellant's testimony, which identified the employer as a large corporation with widespread operations and a substantial workforce, the health coverage is deemed affordable for the purposes of this Appeal.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant indicated that their employer provided an option for health coverage, but failed to provide any substantive information about the cost of the program during the hearing. Therefore, for the purposes of this Appeal, the employer's coverage is deemed to be affordable based on a lack of evidence showing otherwise.

The Appellant simply indicated he failed to confirm he was enrolled and took almost no effort to verify his enrollment, such as speaking to his employer. (Appellant's Testimony). Appellant further indicated, in a way I find less than credible, that the deductions on his paycheck were confusing to him and he could not understand if he was enrolled or not based on his viewing of his paystubs. (Appellant's Testimony). Therefore the Appellant was ineligible, due to the affordable coverage offered by his employer, for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, the Appellant would not be eligible for Advance Premium Tax Credits, as their income does not exceed

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300% of the FPL. However, they may be eligible for ConnectorCare plans and additional state premium assistance, depending on other qualifications.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$38,001.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$158.34 per month; according to Table 4, Appellant, who was 24 years old in 2022, lived in Essex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$277.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$3,166.75 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$158.34 per month), private health insurance with a premium of \$277.00 per month was unaffordable for the Appellant. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Appellant's Claims of Inequity

In light of G.L c. 111M, § 2, commonly referred to as the "individual mandate," the Appellant's claims surrounding his lack of insurance coverage warrant close scrutiny. According to the individual mandate, all adult residents of Massachusetts are required to obtain insurance coverage if it is deemed affordable according to the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The law specifies that a tax penalty is levied on residents who fail to obtain insurance coverage for each month they are without it, though there is a three-month grace period to facilitate the acquisition of coverage or transition between policies.

The Appellant argued that he was under the impression his pre-existing insurance coverage from his employer, Stop & Shop, would continue into 2022. However, he admitted that he did not receive any formal documentation to confirm this status. Furthermore, the Appellant was not certain whether insurance premiums were being deducted from his 2022 paychecks, becoming aware of his lack of insurance only while preparing his tax documents in 2023.

Given the legal requirement under the individual mandate and the serious financial

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consequences of non-compliance, the onus is on the individual to verify their insurance status. This is especially true in light of the potential tax penalties outlined in G. L. c. 111M, sec. 2(b) and interpreted by Administrative Bulletin 03-10 and 956 CMR 6.00.

The Appellant's admitted lack of effort to confirm his insurance enrollment, coupled with his awareness of the individual mandate according to his own testimony, falls significantly short of reasonable due diligence. His claims of uncertainty and confusion do not absolve him of the clear responsibilities laid out in the individual mandate. While the Appellant may have found the process of obtaining and verifying insurance coverage to be complex, the law does not provide exemptions for lack of effort or understanding on the part of the individual.

Therefore, despite the Appellant's articulated uncertainties and lack of documentation, his minimal effort to confirm his insurance status does not absolve him from his legal responsibilities under the individual mandate. As such, he remains subject to the tax penalty for each month of non-compliance, in accordance with G. L. c. 111M, § 2.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer due to lack of evidence to the contrary, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The regulations of the Connector also permit a waiver of the tax penalty in instances of proven financial hardship, as outlined in 956 CMR 6.08. Yet, the appellant did not make a claim of financial hardship during the hearing, nor did he present any supporting evidence when expressly asked. Consequently, his failure to meet the requirements of the individual mandate, given his acknowledged awareness and lack of any proven financial hardship, further supports the appropriateness of applying the standard affordability tables.

Conclusion

Despite being aware of the obligations under the individual mandate, as specified in G.L c. 111M, § 2, the Appellant has not shown reasonable efforts to either obtain insurance or substantiate grounds for exemption. The Appellant was employed during the relevant tax year and was fully aware of the individual mandate's requirements. No steps were taken to apply for health insurance through the Health Connector, nor was any information provided concerning the cost of employer-sponsored insurance. As such, it is the Appellant's duty to actively and reasonably comply with the law.

If at any point the Appellant was confused or unsure about what steps to take, it was his responsibility to seek clarification. This could have been accomplished by

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contacting the Health Connector or visiting one of their in-person locations for assistance. Failure to take these steps undermines the Appellant's claim, and demonstrates a lack of preparedness for this hearing. In the absence of reasonable efforts or substantiating documentation, the tax penalty as stipulated under G.L c. 111M remains applicable.

The Appellant has failed to demonstrate that the cost of purchasing health insurance would have caused him to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 8, 2023 Decision Date: Wednesday, September 27, 2023

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 September 8, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1:	Appeals Case Information from Schedule HC	1 page
Exhibit 2:	Appellant's Statement of Grounds for Appeal	2 Pages
Exhibit 3	2022 Form MA 1099 HC	2 pages

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Exhibit 4 2022 Form 1095 C

1 page

Exhibit 5 2021 Health Connector Appeals Decision

4 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 44 years old in the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$117,274.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 863% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE, based on income, for ConnectorCare.
4. In 2022, the Appellant was initially employed as a Travel Nurse at Maxim Healthcare Services in a Full Time capacity. (Appellant's Testimony). However, the Appellant changed jobs during 2022 and was only employed in this position from January through April. (Appellant's Testimony). Later in 2022, the Appellant obtained a second position as a Staff Nurse at Cambridge Health Alliance. This new position began in June of 2022.
5. The Appellant was offered health insurance in 2022, by first her employer, specifically during the Winter and Spring of 2022 - the period of time in which she incurred the tax penalty- at an approximate monthly cost of \$88.00. (Appellant's Testimony).
6. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$117,274.00 was deemed able to pay \$781.83 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 44 and living in Suffolk County, could have purchased private insurance for \$318.00 per month.

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9. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).

10. In 2022, Appellant had the following monthly expenses for basic necessities:

<u>Rent or Mortgage</u>	\$1,400.00	<u>Car Insurance</u>	\$150.00	<u>Medical/Dental</u>	\$134.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$100.00	<u>House Maintenance</u>	
<u>Cable/Internet</u>	\$157.00	<u>Food</u>	\$600.00	<u>Credit Cards</u>	
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$60.00	<u>Other:</u>	
<u>Electricity</u>	\$300.00	<u>Household & Toiletries</u>	\$80.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$40.00	<u>Total:</u>	\$3,104.33

11. Upon examining the appellant's testimony, it was ascertained that her gross average monthly income was \$9,772.83. Her necessary expenses were determined to be \$3,104.33 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$4,332.63 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

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

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation. (Testimony of Appellant, Exhibit 2).
- b. In her Statement of Grounds, the Appellant articulated two distinct rationales for her appeal. Firstly, she claimed to have received a notice threatening the termination of her utility services. However, it must be noted that she did not furnish any documentary evidence, such as the shut-off notice itself, to substantiate this assertion. The Appellant also testified that she did not have her utilities shut off, after working to pay off the amount owed in arrears.
- c. Secondly, the Appellant contended that she procured a health insurance

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policy that did not comply with the Minimum Creditable Coverage standards, as this was the only option made available to her by her employer.

- d. During the course of her testimony, further clarity was gained regarding her health insurance choices. The Appellant revealed that she opted against securing a policy through the Health Connector that met the Minimum Creditable Coverage standards. Her reasoning was financial in nature; she believed that the cost of such a policy was prohibitive given her economic circumstances at the time.
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
14. Appellant indicated that she did receive shut-off notices for basic utilities. (Testimony of Appellant).
15. In the appeal hearing, the Appellant testified that she was employed as a traveling nurse tasked with COVID-19 vaccine distribution from January to April 2023. (Appellant's Testimony). She disclosed that during this period, she was offered health insurance coverage through her employer. Notably, it was during this timeframe that she incurred a penalty for lacking health insurance. (Appellant's Testimony).
16. In late spring of 2022, the Appellant transitioned to a new role as a staff nurse at Cambridge Health Alliance. She confirmed that she secured health insurance through this new employer, effective June 2022. (Appellant's Testimony). The Appellant further testified that in 2022, she received a notice from National Grid, warning of potential electricity disconnection due to unpaid bills accumulated during a period of unemployment in 2021. She acknowledged that she was able to avert this situation by making extra payments from January to April 2022. (Appellant's Testimony).
17. In addition, the Appellant was fully cognizant that the health insurance offered by her employer during her tenure as a traveling nurse did not satisfy the minimum creditable coverage standards. This awareness stemmed from a prior experience with the Health Connector appeals process in 2021. At that time, she had received an appeal decision which confirmed that her employer-provided insurance did not meet the required standards for minimum creditable coverage. Consequently, the 2021 penalty initially levied against her was rescinded.
18. Regarding her health insurance choices, the Appellant stated that she had

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contacted the Health Connector to explore options for private insurance coverage. At that time, she was quoted a monthly premium of \$300 for a plan, which she deemed unaffordable. Therefore, she did not proceed with the purchase of this insurance plan.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had health insurance for 6 month(s) in 2022. She has been assessed a tax penalty for 2 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because she experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$88.00. (Appellant's Testimony). The Appellant was assessed a penalty of 2 months based on their lack of coverage over 6 months in the beginning of 2022, while she was employed as a Travel Nurse. The penalty was not levied in light of any period of unemployment for the Appellant.

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Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by her employer was \$88.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$928.42 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 0.9% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 0.9% of the employee's income.

Because the Appellant had access to affordable healthcare coverage through their employer, she was not eligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). The Appellant is not eligible for Advance Premium Tax Credits as their income does not fall within the 300% to 400% of the Federal Poverty Level range.

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Because the Appellant's Income was 863% of the Federal Poverty Level, she is ruled to be INELIGIBLE, based on income, for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$117,274.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$781.83 per month; according to Table 4, Appellant, who was 44 years old in 2022, lived in Suffolk County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$318.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$9,772.83 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$781.83 per month), the Appellant could have afforded private health insurance with a premium of \$318.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through both their employer and the private market in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$3,104.33. With a monthly difference of \$4,332.63 between income and expenses, it appears that affording a healthcare plan on the private market for \$318 per month, should have been manageable, even given the utility bill issues from 2021 that the appellant testified about.

Conclusion

The Appellant has not demonstrated a financial hardship as defined by law. See 956 CMR 6.08(1)(e). Therefore, the 2-month penalty is upheld.

In addition, the Appellant was fully cognizant that the health insurance offered by her

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employer during her tenure as a traveling nurse did not satisfy the minimum creditable coverage standards. This awareness stemmed from a prior experience with the Health Connector appeals process in 2021. At that time, she had received an appeal decision which confirmed that her employer-provided insurance did not meet the required standards for minimum creditable coverage. Consequently, the 2021 penalty initially levied against her was rescinded.

The appellant knew she would face another penalty and chose to try and see if the appeal process would again rescind her tax penalty, but she should not have assumed a similar determination would have been made in the future if she is assessed a penalty for the same issue. The appellant should have taken the steps necessary to procure health care coverage that met the minimum creditable coverage requirements.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 41 years old at the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$57,336.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 422% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as an Assembly Technician at Applied Materials, Inc. (via BlackTree Technical Group) at Full Time. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$440.00. (Appellant's Testimony)
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$57,336.00 was deemed able to pay \$382.24 per month for health insurance, or 0.08 of his income. According to Table 4, Appellant, age 41 and living in Essex County, could have purchased private insurance for \$318.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities:

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<u>Rent or Mortgage</u>	\$1,500.00	<u>Car Insurance</u>	\$70.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$125.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$125.00	<u>Food</u>	\$300.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$50.00	<u>Cell Phone</u>	\$85.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$244.00	<u>Household & Toiletries</u>	\$50.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$50.00	<u>Total:</u>	\$2,815.66

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,778.00. His necessary expenses were determined to be \$2,815.66 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of - \$123.79 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)

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16. In the matter at hand, the Appellant testified that during the calendar year of 2022, his financial situation—specifically, the interplay between his income and expenses—rendered him unable to secure health insurance coverage.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$440.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

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Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$440.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$453.91 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 9.21% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 9.21% of the employee's income.

Because the Appellant had access to affordable healthcare coverage through their employer, they are not eligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, The Appellant is not eligible for Advance Premium Tax Credits as their income does not fall within the 300% to 400% of the Federal Poverty Level range.

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Because the Appellant's Income was 422% of the Federal Poverty Level, he is ruled to be INELIGIBLE based on income for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$57,336.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$382.24 per month; according to Table 4, Appellant, who was 41 years old in 2022, lived in Essex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$318.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,778.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$382.24 per month), the Appellant could have afforded private health insurance with a premium of \$318.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through both their employer and the private market in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$2,815.66. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$123.79. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e). The Appellant's 12 month penalty is therefore waived.

Appellant should note that the waiver of his penalty is based upon the facts that I have

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determined to be true for his 2022 appeal. He should not assume that a similar determination will be made in the future should he again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINAL APPEAL DECISION

Appeal Decision:

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 14, 2023

Decision Date: September 27, 2023

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 September 14, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | Correspondence from the Appellant | 2 Pages |

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 62 years old in the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Married Filing Jointly with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Worcester County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$130,841.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 963% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on income for ConnectorCare.
4. The Appellant was not employed in 2022. The Appellant was Retired for the full year 2022 and therefore Appellant was not offered health insurance by her employer.
5. The Appellant does currently have Health Insurance as of August of 2023, but acknowledges that it does not meet minimum creditable coverage standards. (Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
7. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$130,841.00 was deemed able to pay \$872.27 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 62 and living in Worcester County, could have purchased private insurance for \$869.00 per month.
8. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
9. The Appellant, with an income significantly above the federal poverty level, does not make an economic hardship claim in their testimony. (Appellant's Testimony). Instead, they challenge the tax penalty by stating that they were under the mistaken belief that the health insurance offered to them by a provider who contacted them was appropriate and when they learned it wasn't, they were unable to sign up for coverage that met minimum creditable coverage

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standards.

10. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, you purchased health insurance that didn't meet minimum creditable coverage standards because that is what your employer offered, and you felt that your circumstances prevented you from buying other insurance that met the requirements. Provide a copy of the covered services summary from your insurance policy as well as an explanation of documents showing that your income and expenses wouldn't have allowed you to purchase a compliant plan.(Testimony of Appellant, Exhibit 2).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant).
13. In March 2022, following her retirement, the appellant became aware that her COBRA insurance coverage was nearing expiration. In response, she reached out to the Health Connector to explore options for new health insurance. At that time, she was informed that she was ineligible for new coverage because her existing COBRA insurance, although set to expire in June 2022, was still active. (Appellant's Testimony).
14. Subsequently, the appellant received unsolicited contact from an insurance company, a call that was one in a series following her initial inquiry with the Health Connector. She accepted an insurance plan offered by this company, not realizing that the plan failed to meet the minimum creditable coverage standards mandated by law. (Appellant's Testimony).
15. Upon discovering this oversight in March 2023, the appellant again contacted the Health Connector in an attempt to secure compliant insurance coverage. She was informed that open enrollment had closed and that she was not eligible to sign up for a new plan at that time. (Appellant's Testimony).
16. The appellant further testified that securing new coverage was not a priority for her, as she did not anticipate immediate health issues and was approaching Medicare eligibility in January 2024. She also admitted to not seeking out additional insurance options or investigating the possibility of a special enrollment period, even after realizing her current plan did not meet legal

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requirements. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had health insurance for 6 month(s) in 2022. She has been assessed a tax penalty for 3 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

Appellant was not offered health insurance by her employer. The Appellant was unemployed for the full year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 3 months based on their lack of coverage over 6 months. The Appellant was retired. (Appellant's Testimony).

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets

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minimum value standards if it has an actuarial value of at least 60 percent.

The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will assume such coverage was unavailable.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). The Appellant has testified that they were not offered health insurance by their employer. Neither their testimony nor any documentary evidence provided supports that their employer offered health insurance. For the purposes of this Appeal, I will assume such coverage was unavailable. However the Appellant was not eligible for ConnectorCare as her income is more than 400% of the Federal Poverty Limit.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100% of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, The Appellant is not eligible for Advance Premium Tax Credits as their income does not fall within the 300% to 400% of the Federal Poverty Level range.

Because the Appellant's Income was 963% of the Federal Poverty Level, she is ruled to be INELIGIBLE based on income for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$130,841.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$872.27 per month; according to Table 4, Appellant, who was 62 years old in

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2022, lived in Worcester County and filed her 2022 Massachusetts taxes as a Married Filing Jointly with 0 dependents, would have had to pay \$869.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$10,903.42 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$872.27 per month), the Appellant could have afforded private health insurance with a premium of \$869.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Minimum Creditable Coverage Issue

The clear reasoning as to why the Appellant is appealing involves the reality that she chose to purchase HealthCare coverage which she believed to be adequate but which in fact did not meet the state's standard for minimum creditable coverage. Under Massachusetts law, all health insurance plans issued by companies licensed in the state must include a notice clearly indicating whether or not the plan meets the minimum creditable coverage (MCC) standards. This notice is intended to inform consumers if their particular health plan provides compliant coverage.

In accordance with Massachusetts law, residents are required to have Minimum Creditable Coverage (MCC) for health insurance. The MCC requirement applies to individuals rather than health plans, although most plans available in Massachusetts meet the MCC standards. If a person is covered by a plan that does not meet MCC standards, they may be subject to a tax penalty.

However, under certain circumstances, this penalty may be waived. The mandate for maintaining MCC is outlined in M.G.L. c. 111M §2. By law, state penalties for non-compliance are set at one half of the premium for the lowest-cost plan an individual could purchase through the Massachusetts Health Connector. Exemptions to the mandate exist if the amount an individual can afford is lower than the lowest-cost insurance available to them. In such cases, the individual is exempt from the mandate and will not be penalized.

The affordability schedule assists consumers in making informed decisions about coverage and household budgets, defining the maximum amount they would be expected to contribute towards coverage before facing a penalty. This schedule is particularly relevant for Massachusetts residents who lack MCC and are potentially subject to a state penalty.

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Individuals who fail to have minimum creditable coverage during a tax year will face a penalty when they file their taxes. Regulations at 956 CMR 6.08(1) outline considerations for determining whether a taxpayer experienced a hardship, which may exempt them from the penalty.

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

If an Appellant were enrolled in a plan that failed to meet MCC standards and was attempting to enroll in new coverage after the open enrollment period, they have two options. First, the Appellant can seek a Special Enrollment Period if they experienced a qualifying life event. Qualifying life events are outlined by the Health Connector and include situations such as marriage, birth of a child, or *loss of other health coverage (emphasis added)*.

Alternatively, an Appellant may request an open enrollment waiver, as regulated by the Office of Patient Protection. This waiver permits enrollment in health insurance outside of the open enrollment period. It is crucial to act promptly, as specific timelines apply to both options.

The appellant's actions, or lack thereof, reflect a concerning disregard for ensuring that her health insurance meets Minimum Credible Coverage (MCC) standards. (Appellant's Testimony). When her COBRA coverage was about to expire, the appellant should have been diligent in vetting the plan offered by the insurance company to ensure it met MCC requirements, particularly since the offer was unsolicited and came after her interaction with the Health Connector.

Upon discovering that her selected plan failed to meet these standards, the appellant had two viable options available to her. She could have pursued a Special Enrollment Period, prompted by a qualifying life event such as the loss of her COBRA coverage. Qualifying life events, as outlined by the Health Connector, allow for enrollment outside the typical timeframe. Alternatively, she could have sought an open enrollment waiver regulated by the Office of Patient Protection, which also allows for enrollment outside of the standard period. Both options have specific timelines, emphasizing the need for prompt action, a point the appellant seemed to ignore.

It's worth noting that this critical information regarding Special Enrollment Periods and open enrollment waivers is readily accessible online. A brief 5-minute Google search would have supplied the appellant with ample resources, including guidelines and timelines, to make an informed decision. This information is designed to be easily digestible for the general public, further emphasizing that the appellant's lack of action

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was not due to a lack of available guidance, but rather a lack of initiative to seek it out.

Moreover, the appellant's rationale for not prioritizing compliant insurance coverage—specifically, her belief that she would not face health issues before becoming Medicare-eligible—is neither responsible nor an acceptable justification for neglecting to ensure her insurance met MCC standards. Health risks are unpredictable, and the primary function of health insurance is to mitigate the financial risks of unforeseen medical events. Her negligence not only puts her at personal risk but also undermines the regulatory framework designed to ensure that all individuals have access to minimum levels of health coverage.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The regulations of the Connector also permit a waiver of the tax penalty in instances of proven financial hardship, as outlined in 956 CMR 6.08. Yet, the appellant did not make a claim of financial hardship during the hearing, nor did she present any supporting evidence when expressly asked. Consequently, her failure to meet the requirements of the individual mandate, given her acknowledged awareness of the mandate and lack of any proven financial hardship, further supports the appropriateness of applying the standard affordability tables.

Conclusion

In light of the appellant's failure to exercise reasonable due diligence in securing health insurance that meets Minimum Creditable Coverage (MCC) standards, and her subsequent inaction upon discovering the shortcomings of her chosen plan, the penalty imposed is upheld. The appellant is strongly advised to take the insurance mandate seriously, as it is not merely a guideline but a legal requirement.

Given the resources available for understanding and meeting these requirements, ignorance or anticipation of future Medicare coverage are insufficient reasons for noncompliance. The Health Connector provides comprehensive information and guidance through its website, and for questions that may not be readily answered online, in-person locations staffed with knowledgeable representatives are also available.

The appellant is encouraged to take advantage of these resources to ensure her future choices regarding health insurance are informed and in compliance with the law, thereby avoiding additional penalties.

CONNECTOR APPEALS UNIT



PENALTY ASSESSED

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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Exhibit 3	Correspondence from the Appellant	1 page
Exhibit 4	Notarized Correspondence from the Appellant's Mother relating to his Homelessness	1 page
Exhibit 5	Massachusetts ID Copy	1 page
Exhibit 6:	Convergent Health Insurance Card, effective date 2/11/2023	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 38 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Barnstable County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$53,200.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 391% of the Federal Poverty level and based on his income, if all other conditions were met, he MAY BE ELIGIBLE for Advance Premium Tax Credits (300.1-400% FPL) for ConnectorCare.
4. In 2022, the Appellant was employed as a Sous Chef at the Bogs Tavern (Cranberries, LLC.) in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$200.00. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no

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dependents, with an adjusted gross income of \$53,200.00 was deemed able to pay \$336.93 per month for health insurance, or 7.60% of his income. According to Table 4, Appellant, age 38 and living in Barnstable County, could have purchased private insurance for \$298.00 per month.

10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, you were homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice. Provide a copy of an eviction or foreclosure notice, or other proof to support your claim.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
13. Appellant was homeless or did fall more than thirty days behind in rent payments in 2022. Appellant did receive shut-off notices for basic utilities. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant)
14. In the proceedings, the Appellant provided testimony confirming that throughout the year 2022, he maintained full-time employment and earned a stable income. Despite this financial stability, the Appellant faced significant challenges stemming from a diagnosed substance misuse disorder. This medical condition led him to a state of homelessness for the entire year in question and resulted in the allocation of most of his earnings toward the procurement of illegal narcotics.
15. The Appellant further testified that he has since sought professional assistance for his substance misuse disorder and is currently in the process of securing stable housing. Additionally, he stated that he is presently enrolled in a health insurance plan facilitated by his employer and is committed to making substantive life changes, including the acquisition of permanent housing.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an approximate monthly cost of \$200.00. (Appellant's Testimony) The Appellant was employed for the full year and did not have any job disruptions during the year 2022. (Appellant’s Testimony). The Appellant was assessed a penalty of 12 months based on his lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by his employer was \$200.00 a month. An employer sponsored plan’s coverage is affordable for plan year 2022 if the employee’s required contribution for self-only coverage is 9.5 percent or less of the employee’s projected household modified

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adjusted gross income. Appellant was deemed to be able to afford only \$421.17 per month. The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 4.51% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3).

The health insurance offered by the Appellant's employer was deemed to be affordable for the Appellant based on it being less than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 4.51% of the employee's income.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$53,200.00, was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$336.93 per month; according to Table 4, Appellant, who was 38 years old in 2022, lived in Barnstable County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$298.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$4,433.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$336.93 per month), the Appellant could have afforded private health insurance with a premium of \$298.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

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Financial Hardship Analysis

In alignment with the statutory guidelines set forth in 956 CMR 6.08(1), the Health Connector recognizes homelessness as a valid criterion for establishing hardship. Specifically, the regulation obligates the Connector to consider an appellant's living conditions, among other factors, when evaluating the affordability of health insurance providing minimum creditable coverage. Under this framework, homelessness serves as a tangible metric for assessing an individual's financial constraints and overall well-being, thereby influencing the Connector's decision on whether or not to impose a tax penalty for lacking such coverage.

The Appellant has substantiated his claim of homelessness not only through persuasive testimony but also through corroborative documentary evidence. This comprehensive evidence, therefore, lends credible support to his status as homeless, reinforcing his position under the parameters of 956 CMR 6.08(1). As such, the evidence serves to affirm the validity of his hardship appeal.

Conclusion

In conclusion, the Appellant has provided compelling testimony that effectively establishes a qualifying hardship under 956 CMR 6.08(1), namely, his homelessness throughout the applicable tax year. According to this regulation, the Connector is required to consider such circumstances when determining the affordability of health insurance providing minimum creditable coverage. Given that the Appellant has satisfactorily met this criterion, the tax penalty levied against him for lack of minimum creditable coverage is hereby waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

CONNECTOR APPEALS UNIT



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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

Tax Penalty Appeal Decision—Docket No. PA22-788

Appeal Decision: Appeal Approved, In Part -- 2022 tax penalty overturned, in part

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 4, 2023

Decision Date: October 10, 2023

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 – 2022;
3. Health Connector’s Notice of Hearing (2 pages); and
4. Appellant’s Letter in Support of Appeal (1 page, handwritten comments added to Exhibit 2).

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 2022. The basis for the penalty was that the Appellant was not insured at any time in 2022. Exhibits 1 and 2. Based on Exhibit 1 and the Appellant's hearing testimony, I find that the penalty assessment is accurate. See also Exhibit 4.
2. The Appellant filed a Massachusetts personal income tax return for 2022 as a single person with no dependents. The Appellant's federal adjusted gross income (AGI) for 2022 was \$57,880. Exhibit 1.
3. The Appellant was 43 years old in 2022, and he resided in [name of city or town omitted] in Plymouth County, Massachusetts. Exhibit 1.
4. The Appellant's 2022 AGI (\$57,880) was more than 300% of the federal poverty level (\$38,640 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.
5. Based on DOR Table 3 the Appellant could afford to pay 8.00% of his income -- or \$386 per month -- for health insurance coverage in 2022. (The calculation is 8.00 % multiplied by \$57,880 AGI = \$4,630.40 per year divided by 12 months = \$385.86 per month.)
6. Based on DOR Table 4 (Region 2) the Appellant could obtain individual health insurance coverage at his age and location for \$318 per month in 2022.
7. The Appellant objects to the requirement that he must enroll in a health insurance plan if it is affordable. In the handwritten note that I have marked as Exhibit 4 the Appellant states that "I don't need insurances" [sic]. If I go to the hospital I get a bill, I pay it. I have no medical debt." The Appellant adds that, "When I start to have medical problems I will get insurances" [sic].
8. The Appellant lives with his father and mother, who both have health insurance. The Appellant acknowledges that his mother makes substantial use of her medical insurance. Testimony.
9. At some point in the past the Appellant was insured under the MassHealth plan. The Appellant believes that MassHealth mistakenly terminated his insurance

coverage. The Appellant also believes that medical providers have made errors in the bills that he has received. Testimony.

10. The Appellant is saving his money so that he can buy a house in the future. The Appellant asserts (with reasonable accuracy) that a health insurance premium would cost him approximately \$4,000 per year. Testimony. See Findings of Fact, Nos. 5 and 6, above.
11. The Appellant shares household expenses with his parents. His principal contribution is \$1,000 per month for rent. 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 2022 Massachusetts income tax return.
13. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate the affordability schedules adopted by the board of directors for the Commonwealth Health Insurance Connector Authority (Health Connector or Connector) for 2021. See 956 Code Mass. Regs. 6.05. Table 1 sets forth income levels less than 150% of the federal poverty level that are exempt from the assessment of a state tax penalty. Table 2 sets forth income eligibility standards for various family sizes at 300% of the federal poverty level, which is the income eligibility standard for the ConnectorCare government subsidized health insurance program. Tables 5 and 6 set forth the tax penalties in effect for 2022. (The DOR instructions are published online at <http://www.mass.gov/dor/2022ScheduleHCInstructions> 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 2022.)

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 2022. 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 – 2022 that the Appellant signed and filed in this case. See Exhibit 2.

In this case, the Appellant asserts that he should not be penalized because he does not want (or need) health insurance. Instead, the Appellant says, he should be able to divert the health insurance premiums to the money that he is saving for a house. It will be time enough, he contends, to obtain health insurance when he needs it. See Exhibit 4 and Testimony. The Appellant’s position is at odds with the individual mandate under the state statute that I have summarized above.

Under statutes enacted by the Massachusetts legislature, a Massachusetts resident who is 18 years old or older must “obtain and maintain” health insurance so long as it is “deemed affordable.” See Mass. Gen. L. c. 111M, sec. 2 (a), above. DOR Tables 3 and 4

address the affordability issue: the Appellant can afford to pay \$386 per month for health insurance which he can obtain for \$318 per month. See Findings of Fact, Nos. **, above. It is undisputed that the Appellant was not insured at any time in 2022.

The Appellant did not produce sufficient evidence of a financial hardship to vacate the 12 month penalty assessed by the DOR under the Health Connector's regulations. See 956 Code Mass. Regs. 6.07 and 6.08, above. However, after considering all the circumstances I will reduce the penalty to 3 months. This will give the Appellant an opportunity to comply with the individual mandate for 2024. The Appellant should not assume that penalties that DOR may assess in future years will be vacated or reduced.

See my RECOMMENDATION below.

PENALTY ASSESSED

Number of Months Appealed: 12 Number of Months Assessed: -3-

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Massachusetts Health Connector Appeals Unit

RECOMMENDATION. The Health Connector’s open enrollment period will start on November 1, soon after you receive this appeal in the mail. This gives you an opportunity to shop for health insurance that will take effect on January 1, 2024. Don’t delay submitting an application: many people will be applying under the new eligibility standards that will take effect for the first time, and you must select the insurer that you prefer and pay the first month’s premium in December to be insured in January. It is also important that you correctly report your income and expenses.

- You can submit an application using the Health Connector’s website: www.mahealthconnector.org or by calling 1-877-623-6765. There are also Walk-In Centers – call for an office near you.
- Given your description of past encounters you may prefer to seek advice or help at Health Care For All, which is a private, non-profit organization. Call the free consumer help line at 1-800-272-4232 or use the website at www.hcfama.org.
- If you prefer, you can also apply directly to an insurance company.

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- Exhibit 4 Barmenia Insurance Confirmation Documentation, 1 page
dated 3/24/2022
- Exhibit 5 I-94 Form, for the Appellant, dated November 4, 2022. 1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 62 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$648,996.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 4,776% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE, based on income, for ConnectorCare.
4. In 2022, the Appellant was employed as an employee of Mettler Packaging, LLC., in a full-time capacity. (Appellant's Testimony).
5. The Appellant testified that he came to the United States for work beginning in March of 2022 and stayed through the end of the year. (Appellant's Testimony). The Appellant also testified that he was employed for the full year in 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an unspecified monthly cost. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$648,996.00 was deemed able to pay \$4,326.64 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 62 and living in Suffolk County, could have purchased private insurance for \$435.00 per month.

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10. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Appellant testified that he had health insurance through his German Employer and that the Health Connector was mistaken in not crediting him with having minimum creditable coverage during his time in the United States, which began in March of 2022. (Testimony of Appellant, Exhibits 2, 3 and 4).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. Appellant testified indicating that his health insurance coverage is facilitated through their German employer. The coverage model is tailored to accommodate the appellant as a German citizen working in the United States on an expatriate assignment. It operates on a reimbursement basis for all incurred medical expenses. This information has been duly considered in the context of this administrative appeal.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

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

The Health Connector indicated that the Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an unspecified monthly cost. (Appellant's Testimony). The Appellant testified that he came to the United States for work beginning in March 2022 and stayed through the end of the year. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on his supposed lack of coverage over 12 months.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that he has healthcare coverage that encompasses the full spectrum of required medical treatment and expenses, inclusive of medications and dental care through his employer. Moreover, the appellant has offered compelling testimony, corroborated by documentary evidence, indicating his healthcare plan would provide full reimbursement for all healthcare expenditures throughout the relevant tax year. Further, I find that the appellant's healthcare coverage was affordable for him based on this testimony and the documentary evidence provided and as referenced above.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is

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affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. *See* 26 CFR § 1.36B-2(c)(3). Based on the testimony of the Appellant, it appears that they were employed and offered health insurance by their employer and in fact were enrolled in that employer sponsored healthcare coverage. As a result, they are ineligible for ConnectorCare.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$648,996.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$4,326.64 per month; according to Table 4, Appellant, who was 62 years old in 2022, lived in Suffolk County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$435.00 for insurance on the private market. *See* 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

In light of the Appellant's gross income (\$54,083.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2021 Schedule HC Tables (\$4,326.64 per month), the Appellant could have afforded private health insurance with a premium of \$435.00 per month. (2021 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Minimum Creditable Coverage (MCC) standards

Given the extensive Minimum Creditable Coverage (MCC) requirements stipulated by the Commonwealth, a health plan must not only be comprehensive but also adhere to specific conditions concerning deductibles, out-of-pocket maximums, and a broad spectrum of services, among other factors. These services encompass, but are not limited to, ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health services, and prescription drug coverage. Furthermore, plans must not impose annual or lifetime caps on coverage amounts and should provide a certain level of preventive care prior to any deductible being applied.

In light of these comprehensive MCC requirements, the appellant has presented robust evidence, both testimonial and documentary, asserting that his employer-provided health insurance coverage through his German employer is in alignment with these standards. The Appellant's testimony clearly articulated that his

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health plan operates on a reimbursement model, specifically designed to cover all necessary medical expenses incurred while residing in the United States. Additionally, corroborative evidence submitted verifies the breadth of services provided under this coverage, sufficiently meeting the requirements outlined for MCC-compliant plans, such as those related to emergency services, hospitalization, and prescription drugs, among others.

Therefore, under the purview of 956 CMR 6.08(1), it is unnecessary to delve into the financial hardship aspects of the appellant's case. The evidence satisfactorily demonstrates that the appellant's employer-provided health insurance should be recognized as fulfilling the Commonwealth's Minimum Creditable Coverage standards. As such, there exists no basis for the imposition of a tax penalty for the lack of MCC.

Conclusion

Given the weight of this credible evidence, it is the conclusion of this appeal that the appellant's healthcare coverage satisfactorily meets the Commonwealth's Minimum Creditable Coverage standards. Consequently, the appellant is in compliance with the healthcare coverage requirements as mandated by law. The appellant's tax penalty is therefore waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CONNECTOR APPEALS UNIT



Hearing Officer

cc. Connector Appeals Unit

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

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from 2022

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 53 years old in the beginning of 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Essex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$58,199.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 428% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on income for ConnectorCare.
4. In 2022, the Appellant was employed as a Printer Operator at Fulfillment America, Inc., in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2022.
6. The Appellant was offered health insurance in 2022, by his employer, at an unspecified monthly cost. (Appellant's Testimony). Appellant could not identify the cost, but did admit he failed to sign up for his employer's health insurance plan as he believed it's cost would be more than he could afford. (Appellant's Testimony).
7. The Appellant does not currently have Health Insurance as of October of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$58,199.00 was deemed able to pay \$387.99 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 53 and living in Essex County, could have purchased private insurance for \$422.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule

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HC for 2022).

11. In 2022, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$2,035.00	<u>Car Insurance</u>	\$61.00	<u>Medical/Dental</u>	\$25.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$600.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$130.00	<u>Food</u>	\$800.00	<u>Car Repair(s)</u>	\$129.60
<u>Heat</u>	\$75.00	<u>Cell Phone</u>	\$20.00		
<u>Electricity</u>	\$125.00	<u>Household & Toiletries</u>	\$50.00		
<u>Car</u>	\$185.00	<u>Clothing</u>	\$100.00	<u>Total:</u>	\$4,335.60

12. Upon examining the appellant's testimony, it was ascertained that his gross monthly income was \$4,849.92. His necessary expenses were determined to be \$4,335.60 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of -\$440.87 in his monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.

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

- a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).

14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).

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

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15. Appellant did receive shut-off notices for basic utilities. Appellant provided evidence which was clear and convincing of these circumstances during the Appellant's testimony. (Testimony of Appellant).
16. In the matter at hand, the Appellant has asserted that during the calendar year of 2022, his financial situation—specifically, the interplay between his income and expenses—rendered him unable to secure health insurance coverage.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had no health insurance in 2022. He has been assessed a tax penalty for 12 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) his employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant’s Employment & Employer Based Insurance

The Appellant was offered health insurance in 2022, by his employer, at an unspecified monthly cost. (Appellant's Testimony). The Appellant was employed for the

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full year and did not have any job disruptions during the year 2022. (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on their lack of coverage over 12 months. The penalty was not levied in light of any period of unemployment for the Appellant.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$460.74 per month. Based on the testimony of the Appellant, it appears that although they were employed and offered health insurance by their employer, they did not take the necessary steps required by law to sign up for it or engage with their employer to ensure they were enrolled.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). Based on the testimony of the Appellant, it appears that although they were employed and offered health insurance by their employer, they did not take the necessary steps required by law to sign up for it or engage with their employer to ensure they were enrolled. Because the Appellant failed to show reasonable efforts to sign up for the health insurance offered by their employer as required by law, it must be assumed they were offered affordable coverage. As a result, they are ineligible for ConnectorCare.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). Given this information, the Appellant is not

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eligible for Advance Premium Tax Credits as their income does not fall within the 300% to 400% of the Federal Poverty Level range. Because the Appellant's Income was 428% of the Federal Poverty Level, he is ruled to be INELIGIBLE based on income for subsidized coverage under ConnectorCare.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$58,199.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$387.99 per month; according to Table 4, Appellant, who was 53 years old in 2022, lived in Essex County and filed his 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$422.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$4,849.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$387.99 per month), private health insurance with a premium of \$422.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables)

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through their employer, as it must be assumed they were offered affordable coverage in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

Appellant has demonstrated a financial hardship in the year 2022. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$4,335.60. It's clearly challenging to manage a deficit when the monthly difference between income and expenses is -\$440.87. In such circumstances, it would be unfair to expect the appellant to make an additional expenditure for health insurance.

Conclusion

The Appellant has demonstrated that the cost of purchasing health insurance would have caused them to experience a serious financial hardship. See 956 CMR 6.08(1)(e).

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The Appellant's 12 month penalty is therefore waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-925

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 4, 2023

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 29, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (w/ attachments) (7 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 is appealing a tax penalty assessed against her for not having insurance during 2022.
2. In filing her 2022 state income taxes, Appellant reported that she did not have insurance meeting minimum creditable coverage standards at any point during that year. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 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.

3. In fact, Appellant had applied for subsidized coverage through the community health center where she received care.
4. Appellant testified credibly that she had been covered in 2022 through a MassHealth program, the Community Care Cooperative.
5. Further, Appellant corroborated that testimony by offering evidence of a notice she had recently received from MassHealth regarding a renewal of that coverage.
6. Appellant had been offered insurance through her employment, but had declined that insurance. She had received a 1095-C from that employer for 2022, which indicated that she did not have coverage through her employment. See Exhibit 3, page 7. The 1095-C is a form that employers are required to provide to employees stating whether health insurance was offered and whether the employee accepted that insurance.
7. Apparently Appellant provided the 1095-C to her tax preparer at the time that her 2022 income taxes were being prepared, and the tax preparer concluded from that she had not had insurance at all in 2022. This explained the misinformation reported on her 2022 state income taxes stating that she was uninsured.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, 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

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

In this case, the individual mandate penalty was assessed against Appellant because she erroneously reported on her state income taxes that she did not have insurance. However, based on her credible testimony and the corroborating evidence she produced at the hearing, I find that Appellant was in fact covered in 2022 through MassHealth, which is the state’s Medicaid program. The definition of “creditable coverage” in the individual mandate statute specifically includes coverage under “Title XIX of the Social Security Act.” M.G.L. c. 111M, §1(d). Title XIX of the Social Security Act creates the Medicaid program. Thus, MassHealth coverage is creditable coverage and satisfies the individual mandate.

Because I conclude that Appellant in fact had creditable insurance in 2022, I am not required to determine whether she has established a hardship that would have constituted grounds for waiving the penalty under the Health Connector’s regulations. Instead, I am allowing the appeal and waiving the penalty 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-928

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 4, 2023

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 29, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (w/ attachments) (18 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 is appealing a tax penalty assessed against her for not having insurance during 2022.
2. Appellant lived in Middlesex County. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 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.

3. Until June 2022, Appellant lived in Virginia. There, Appellant did not work. She was covered under Medicaid and Medicare, both of which are programs of government-subsidized insurance for people who are eligible by reason of income or disability.
4. During the course of 2022, Appellant obtained employment in Massachusetts and moved to this state in June of that year.
5. At that point, Appellant began to work and earn income in Massachusetts.
6. Appellant's new job offered her health insurance as a benefit and thus she was insured from June through the remainder of 2022. She was insured as of the time of the hearing.
7. Appellant prepared her income taxes herself. She filed her taxes as a full-year resident of Massachusetts, even though in fact she had been only a part-year resident in 2022.
8. Appellant reported on her taxes that she had health insurance meeting minimum creditable coverage standards from June through December. However, she reported that she did not have such insurance from January through May.
9. As a consequence, Appellant was assessed a penalty for being uninsured for the five months from January through May.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, 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

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

The individual mandate applies only to individuals who are residents of Massachusetts. Appellant was not a resident of Massachusetts for the first five months of 2022. Thus, she should not have been subject to the individual mandate during that time period.

However, she filed her taxes as a full-year resident of Massachusetts. Thus, she was assessed a penalty for not having insurance for those first five months of the year.

Even if I concluded that Appellant was subject to the individual mandate for the first five months of 2022, I would further conclude that she should not have been penalized because she was in fact insured during that time period. She was covered under both Medicare and Medicaid, which are government-subsidized programs of health insurance. The definition of "creditable coverage" under the individual mandate statute specifically includes coverage under "Part A or Part B of Title XVII of the Social Security Act." M.G.L. c. 111M, § 1(c). Parts A and B of Title XVII of the Social Security Act create the Medicare program. Further, the definition of "creditable coverage" also includes coverage under "Title XIX of the Social Security Act." M.G.L. c. 111M, §1(d). Title XIX of the Social Security Act creates the Medicaid

program. Thus, Appellant had creditable coverage during the first five months of 2022, as well as during the remaining seven months of the year. Accordingly, she should not have reported on her income taxes that she was uninsured during that period of time.

Because I have concluded that Appellant was subject to the individual mandate only during the time that she was insured and that she was insured during the entire year, I am not required to determine whether she has stated grounds constituting a hardship that would qualify her for a waiver of the individual mandate penalty. Instead, I am allowing the appeal and waiving the penalty in its entirety.

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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-930

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 4, 2023

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 29, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice (2 pages)

Exhibit 2: Appeal Case Information sheet¹ (1 page)

Exhibit 3: Statement of Grounds (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 21 at the end of 2022. Exhibit 2.
2. Appellant lived in Bristol County in 2022. Exhibit 2.
3. Appellant filed her taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that she filed with her state income taxes, and confirmed at the hearing, that her annual income for 2022 was \$31,811. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of her 2022 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

5. Appellant reported in the Schedule HC that she filed with her 2022 state income taxes, and confirmed at the hearing, that she had health insurance meeting minimum creditable coverage standards from January through February of 2022, but she did not have such insurance for the remaining ten months of the year. Exhibit 2.
6. At the start of 2022, Appellant worked for an employer that offered health insurance and she was enrolled in that insurance.
7. However, at the end of February, she left that job and started a new job in March. As a result, she was not covered through that insurance after February.
8. Appellant's new job offered her health insurance as a benefit, but there was a three-month waiting period before she could enroll.
9. Because she was not getting insurance through her new job initially, Appellant purchased a form of coverage that she found for herself. The coverage was expensive and it was difficult to afford. Further, she found that it did not cover her for the medical services that she sought during the year. As a result, she dropped that coverage.
10. When she dropped the coverage, she had missed the time period during which she could enroll in her new employer's health coverage. As a result, she had to wait until the next open enrollment period to enroll.
11. The next open enrollment period came at the end of 2022. Appellant enrolled in health insurance at that time and was enrolled in health insurance as of the date of the hearing.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2022-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. 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 is available 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, she was without insurance for ten months in 2022. Because she is given a three-month grace period, she has been assessed a penalty for only seven months.

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" (MCC) under regulations promulgated by

the Health Connector's board. Id. § 1. These regulations contain a number of requirements that an insurance plan must meet. Among these are requirements that the insurance plan cover a broad range of medical services, including major medical expenses. 956 C.M.R. § 5.03(1)(a). The coverage product that Appellant purchased in March did not meet that standard. Accordingly, it was not MCC-compliant insurance.

Because Appellant did not have MCC-compliant health insurance for ten months, she is subject to a penalty under M.G.L. c. 111M if she could have afforded to purchase such health insurance. In order to determine whether she had access to affordable health insurance, I must consider whether she could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 4-5.

Appellant was working during the period that she was uninsured. However, for the first three months of that ten-month period, she was not yet eligible to enroll in the health insurance offered by her new employer because she was on a probationary period. Once she became eligible, she did not enroll because she had obtained the other coverage product and considered herself covered. As a result, she missed the enrollment period for her employer's insurance, and, when she later tried to enroll, she was forced to wait until the beginning of 2023. Appellant could have afforded this insurance, as established by the fact that she enrolled and was able to pay for the insurance in 2023. Thus, Appellant did have access to affordable employer-sponsored insurance during the period she was uninsured in 2022, but she did not enroll in it because she believed she was covered under another product.

Further, Appellant would have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant's income during 2022 was \$31,811 and therefore she was income-eligible for Connector Care. However, she did not seek to obtain it, again because she believed she was covered under another product.

Finally, Appellant would not have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$31,811 was deemed able to afford only 4.2 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$1,336 annually or \$111 a month. During 2022, a person like Appellant who lived in Bristol County and was 21 years of age would have had to pay \$277 a month to obtain health insurance meeting minimum creditable coverage standards. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would not have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider whether she has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that she has. In reaching that determination, I may consider a range of financial factors, including the cost of insurance that Appellant did actually purchase. See 956 CMR § 6.08(2)(b). In this case, Appellant purchased a product that did not meet MCC standards under state law. The cost of that product was not insignificant. Thus, I conclude that Appellant did not fail to get creditable coverage because she was trying to save money. Rather, I conclude that it was due to confusion and unfamiliarity with the nature of the product that she was purchasing. Further, because she had obtained that coverage, she missed the opportunity to enroll in health insurance through her job and thus, as a practical matter, could not have obtained that insurance during 2022.

Based on the foregoing, I will exercise my discretion to allow the appeal and waive the penalty in full.

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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-931

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 29, 2023

Decision Date: December 4, 2023

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 29, 2023. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (w/ attachments) (16 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 31 at the end of 2022. Exhibit 2.
2. Appellant lived in Norfolk County in 2022. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant reported on the Schedule HC that he filed with his state income taxes, and confirmed at the hearing, that his annual income for 2022 was \$70,639. Exhibit 2.

¹ Exhibit 2 is a computer printout containing information extracted from the Schedule HC that Appellant submitted as part of his 2022 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 2022 state income taxes, and confirmed at the hearing, that he had health insurance meeting minimum creditable coverage standards from January through April of 2022, but he did not have such insurance for the remaining nine months of the year. Exhibit 2.
6. At the start of 2022, Appellant worked for an out-of-state employer that offered health insurance and he was enrolled in that insurance.
7. However, in April, he was laid off from that job. As a result, his health insurance ended during that month.
8. As part of the layoff, Appellant received a severance package consisting of \$1,435 a week for 21 weeks. Exhibit 3 (page 14).
9. During the period that he was unemployed, he continued to look for a new job. He expected to get a job within a couple of months and so did not attempt to find alternative health insurance to replace the insurance he had lost as a result of the layoff.
10. In fact, Appellant did not find a new job until close to the end of 2022. Exhibit 3 (page 18). He started the new job in 2023. That job offered health insurance and Appellant was enrolled in that insurance as of the date of the hearing.
11. The income that Appellant reported for 2022 consisted of salary for the first four months of the year while he was working and the severance. He also received unemployment compensation consisting of \$680 a week starting in mid-October and running through the end of the year. Exhibit 3 (page 17).
12. During the time that Appellant was uninsured, he was expenses including a mortgage, condominium fees, and student loan repayments consisting of about \$2,600 a month.

In addition to the foregoing, I take administrative notice of the 2022 Schedule HC Instructions and Worksheets, available at <https://www.mass.gov/doc/2021-schedule-hc-instructions/download>, which, as discussed below, include the Affordability Schedule and other financial information used in making 2021 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, Massachusetts residents are permitted a 63-day gap in coverage without facing a penalty. 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 is available 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 MCC-compliant insurance for eight months in 2022. Because he is given a three-month grace period, he has been assessed a penalty for only five months.

Because Appellant did not have health insurance for eight months, he is subject to a penalty under M.G.L. c. 111M if he could have afforded to purchase such health insurance. In order to determine whether he had access to affordable health insurance, I must consider whether he could have obtained affordable insurance from any of the following three sources: (1) employment-based insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market. See 2022 Schedule HC instructions at pages HC 4-5.

Appellant was unemployed during the period that he was uninsured. Thus, he could not have obtained health insurance through employment during that time period.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2022, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$38,640. (I obtain the figure of \$38,640 from Table 2 to the instructions for the 2022 Schedule HC.) In this case, Appellant's income during 2022 was \$70,639 and therefore he was not income-eligible for Connector Care.

However, Appellant would have been able to afford to purchase unsubsidized health insurance on the non-group market under state affordability standards established by the Health Connector Board under M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$70,639 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2022 instructions for the Schedule HC.) In this case, that amounts to \$5,651 annually or \$470 a month. During 2022, a person like Appellant who lived in Norfolk County and was 31 years of age could have obtained health insurance meeting minimum creditable coverage standards for a premium of \$290 a month. (I obtain the premium figure from Table 4 to the instructions for the 2022 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2022, but did not, I am required to consider 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.

In this case, strict application of the affordability standards would be inequitable because Appellant's income declined during the period that he was uninsured. For the first 21 weeks that he was uninsured, he was unemployed and was living on his severance payments, which were less than he had been making when he was working. Then, for the last 10 weeks of the year, he was living on unemployment compensation, which was less than half the amount of the severance. During that period, when he was receiving \$680 a week, he would not have been able to afford health insurance under the affordability standards because \$680 a week annualizes to \$35,360. At that income level, he would be deemed able to afford only 5 percent of his salary for insurance. See Table 3 of the 2022 instructions for the Schedule HC. This would amount to \$1,768 per year or \$147 a month, which is significantly less than the \$290 he would have had to pay for insurance on the non-group market.

Further, even during the period when he was living on severance, he was experiencing the uncertainty of unemployment without any assurance as to how long he would be without work. During that period, he had considerable expenses, including mortgage payments, condo fees and student loan repayments that alone took up more than half of the severance payments he was receiving. Thus, I conclude that Appellant has established that purchasing insurance would have caused him to experience a serious deprivation of the necessities of life. This constitutes grounds to waive the individual mandate penalty. See 956 C.M.R. § 6.08(e).

Based on the foregoing, I will exercise my discretion to allow the appeal and waive the penalty in full.

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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: September 8, 2023 Decision Date: Wednesday, September 27, 2023

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 September 8, 2023. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Appellant's Family member provided translation services as the Appellant did not request an interpreter for the hearing. The Family Member was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified with assistance from her Family Member.

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

- | | | |
|------------|---|---------|
| Exhibit 1: | Appeals Case Information from Schedule HC | 1 page |
| Exhibit 2: | Appellant's Statement of Grounds for Appeal | 2 Pages |
| Exhibit 3 | 2022 Form 1095 C | 1 page |

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 51 years old at the beginning of 2022. Appellant filed her 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Bristol County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$22,852.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 168% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 2B (150.1-200% FPL) under ConnectorCare.
4. In 2022, the Appellant was employed as a Laundry Services Technician at Purity Linen Services, Inc., in a Full Time Capacity. (Appellant's Testimony).
5. The Appellant testified that she experienced periods of unemployment during the year 2022, and was employed during the following months: April-through the end of the year 2022.
6. The Appellant was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$185.00. (Appellant's Testimony).
7. The Appellant does currently have Health Insurance as of August of 2023. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$22,852.00 was deemed able to pay \$55.23 per month for health insurance, or 2.90% of her income. According to Table 4, Appellant, age 51 and living in Bristol County, could have purchased private insurance for \$422.00 per month.
10. Private insurance was UNAFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
11. In 2022, Appellant had the following monthly expenses for basic necessities:

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<u>Rent or Mortgage</u>	\$0.00	<u>Car Insurance</u>	\$0.00	<u>Medical/Dental</u>	\$0.00
<u>Property Taxes</u>	\$0.00	<u>Gas (Car)</u>	\$0.00	<u>House Maintenance</u>	\$0.00
<u>Cable/Internet</u>	\$0.00	<u>Food</u>	\$250.00	<u>Credit Cards</u>	\$0.00
<u>Heat</u>	\$0.00	<u>Cell Phone</u>	\$16.00	<u>Other:</u>	\$0.00
<u>Electricity</u>	\$0.00	<u>Household & Toiletries</u>	\$50.00		
<u>Car</u>	\$0.00	<u>Clothing</u>	\$125.00	<u>Total:</u>	\$441.00

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$1,904.33. Her necessary expenses were determined to be \$441.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,156.18 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2022 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. Provide proof to show additional expenses above and beyond that which your income would cover. If you were eligible to receive government subsidized insurance, explain why obtaining that would cause serious deprivation.(Testimony of Appellant, Exhibit 2).
 - b. Appellant originally marked on her statement of grounds for appeal form that she purchased health insurance in 2022 which did not meet minimum creditable coverage standards. (Exhibit 2). Through her testimony however it became clear that this ground was inaccurate and she had meant to indicate that the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. (Appellant's Testimony).
14. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
15. Appellant did not fall more than thirty days behind in rent payments in 2022.

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Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant).

16. The Appellant testified that she commenced employment as a Laundry Service Technician in April 2022. At that time, she became aware of her obligation to secure health insurance pursuant to the individual mandate law of the Commonwealth of Massachusetts.
17. Appellant engaged her employer to inquire about the availability of employer-sponsored health insurance. In response, her employer informed her that company-sponsored health insurance would be accessible to her, but only upon the successful completion of a six-month probationary period. (Appellant's Testimony).
18. Subsequently, the Appellant sought to obtain health insurance coverage through the Unified Application for MassHealth and the Health Connector. She testified that her application was evaluated, and she was found ineligible for MassHealth benefits. The Health Connector offered her insurance options, which she deemed financially burdensome and thus chose not to enroll in any plan through that platform. (Appellant's Testimony).
19. The Appellant further testified that she revisited the issue of employer-sponsored health insurance coverage with her employer in October 2022, upon the conclusion of her six-month probationary period. According to her testimony, she was advised that she would need to await the company's next open enrollment period, scheduled for January 2023, to enroll in the employer-sponsored health insurance plan.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Residents who do not obtain insurance are subject to a tax penalty for "each of the months" that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance

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

Appellant had no health insurance in 2022. She has been assessed a tax penalty for 12 months. She appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) her employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Appellant's Employment & Employer Based Insurance

The Appellant's testimony was conflicting with regards to whether or not she was offered health insurance by her employer in 2022. In one instance she testified that she was offered health insurance in 2022, by her employer, at an approximate monthly cost of \$185.00. (Appellant's Testimony). In another instance she testified that she was only offered health insurance after a six (6) month probationary period, between April and October. In another instance the Appellant testified that she was told to wait until open enrollment in January of 2023 to sign up for health insurance for her employer.

The Appellant testified that she experienced periods of unemployment during the year 2022, and was employed during the following months: April-through the end of the year in 2022 (Appellant's Testimony). The Appellant was assessed a penalty of 12 months based on her lack of coverage over 12 months.

Qualifying coverage includes any group health plan offered through an employer to which an applicant has access; coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income; and coverage meets minimum value standards if it has an actuarial value of at least 60 percent.

Appellant testified, and I find the testimony to be credible, that the cost of insurance offered by her employer was \$185.00 a month. An employer sponsored plan's coverage is affordable for plan year 2022 if the employee's required contribution for self-only coverage is 9.5 percent or less of the employee's projected household modified adjusted gross income. Appellant was deemed to be able to afford only \$180.91 per month. The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 9.5 percent of the

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Appellant-employee's projected household modified adjusted gross income. The employer's offering was 9.71% of the employee's income.

ConnectorCare Eligibility

In order to be eligible for ConnectorCare, which is subsidized through advance premium tax credits and state subsidies, an individual may not have access to affordable employer-sponsored insurance as defined by the Affordable Care Act. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only qualifying coverage that is affordable and meets minimum value standards, as those terms are defined in law, will block an employee from being eligible for an advance premium tax credit. See 26 CFR § 1.36B-2(c)(3). As previously mentioned, the health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 9.5 percent of the Appellant-employee's projected household modified adjusted gross income. The employer's offering was 9.71% of the employee's income.

In 2022, the Appellant was eligible for a ConnectorCare plan with \$0 or low monthly premiums, low out-of-pocket costs, and no deductibles. The Appellant's income is 168% of the Federal Poverty Level. Based on this, she may qualify for Plan Type 2B. To qualify, the Appellant must also live in Massachusetts, be a U.S. citizen or lawfully present immigrant, not have affordable employer insurance, not be incarcerated, and not qualify for Medicare or MassHealth.

In order to be eligible for the Advance Premium Tax Credit (APTC), the tax filer must have an expected household income of greater than or equal to 100 % of the federal poverty level and less than 400 % of the federal poverty level for the year in which coverage is sought. (45 CFR 155.305 (f) (1) (i)).

Massachusetts residents may also be eligible for additional state premium assistance by participating in a subsidized ConnectorCare health insurance plan if (a) their household income does not exceed 300 percent of the FPL and (b) they are eligible for an APTC. 956 Code Mass. Regs. 12.09 (1). The Appellant is not eligible for Advance Premium Tax Credits as their income does not fall within the 300% to 400% of the Federal Poverty Level range.

Because the Appellant's Income was 168% of the Federal Poverty Level, she is ruled to be ELIGIBLE for subsidized coverage under ConnectorCare.

In this case, the appellant asserted that the cost of available health insurance plans was unaffordable. However, these claims lack credibility due to the absence of any supporting documentary evidence and the vague nature of the appellant's testimony. While the appellant contends to have engaged with the Health Connector or the unified application process and suggests facing unusually high costs, these assertions were made without specific details. Such omissions undermine the credibility of the

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appellant's claim, especially in light of publicly accessible information on the Health Connector's website. The website explicitly outlines the lowest-cost plans available based on an individual's income in relation to the Federal Poverty Level (FPL). For example, the lowest monthly premiums for ConnectorCare plans range from \$0 to \$134 depending on one's FPL percentage. The appellant's vague statements about facing '400 dollars per month' in costs appear inconsistent with these published figures. In the absence of corroborating evidence, which the appellant failed to provide, the claim that the health insurance costs were unmanageable does not hold up under scrutiny.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2022. According to Tables 3 and 4 of the HC schedule for 2022, Appellant, with an adjusted gross income of \$22,852.00, was deemed not to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$55.23 per month; according to Table 4, Appellant, who was 51 years old in 2022, lived in Bristol County and filed her 2022 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$422.00 for insurance on the private market. See 956 CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 1.

Considering the Appellant's gross income (\$1,904.33 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2022 Schedule HC Tables (\$55.23 per month), private health insurance with a premium of \$422.00 per month was unaffordable for the Appellant. (2022 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through ConnectorCare in 2022, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The evidence presented by the appellant in this case is insufficient to establish a financial hardship as defined by law. The appellant testified that in 2022 they incurred basic monthly expenses of approximately \$441.00. With a monthly difference of \$1,156.18 between income and expenses, it appears that affording a healthcare plan should be manageable.

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Conclusion

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 27 years old in 2022. Appellant filed his 2022 Massachusetts tax return as Single with 0 dependents claimed (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2022 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$83,370.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 613% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE for ConnectorCare.
4. In 2022, beginning in July of 2022, the Appellant was employed as an Associate Dentist at Core Dental Group, LLC. in a Full Time capacity. (Appellant's Testimony).
5. Appellant was offered health insurance by his employer.
6. The Appellant does not currently have Health Insurance as of August of 2023. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. According to Table 3 of Schedule HC for 2022, The Appellant has no dependents, with an adjusted gross income of \$83,370.00 was deemed able to pay \$555.80 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 27 and living in Middlesex County, could have purchased private insurance for \$277.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2022 (Schedule HC for 2022).
10. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2021 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of

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uninsurance. Provide proof such as denial letters, bills from an out-of-state address during the relevant time period, or other proof;(Testimony of Appellant, Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2022 (Testimony of Appellant).
12. Appellant did not fall more than thirty days behind in rent payments in 2022. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant).
13. The Appellant's residency was not established until the end of July 2022. (Appellant's Testimony). The Appellant provided evidence of this residency through utility bill information corresponding to his address in Michigan. (See Exhibit 3).
14. Furthermore, the Appellant testified, in testimony that is credited, that he graduated from dental school in May 2022, from the University of Michigan, and successfully passed his board examinations shortly thereafter. (Appellant's Testimony).
15. Following the completion of his academic and examination commitments, the Appellant took several weeks of vacation before establishing his residence in Massachusetts, specifically in Malden, at the end of July 2022. (Appellant's Testimony).
16. The Appellant also testified that he began employment in his chosen field immediately after relocating and obtained health insurance through his employer, which he continues to hold as of the date of this writing.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

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

Appellant had health insurance for 5 month(s) in 2022. He has been assessed a tax penalty for 4 months. He appealed the assessment. See Exhibits listed above. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through either (1) he employment, through (2) the private market, or through (3) a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because he experienced a financial hardship as defined in 956 CMR 6.08.

Questions of Residency

The Appellant testified that there are underlying questions surrounding his residency in the Commonwealth of Massachusetts. Specifically, he indicated that he did not become a resident of the Commonwealth until late July 2022. If that is the case, the Appellant should not have any penalties, as his health insurance became active in August of 2022, per the Health Connector’s own records.

Massachusetts General Laws (M.G.L.) Chapter 62, Section 1: This law defines "resident" and "non-resident" for Massachusetts income tax purposes. According to M.G.L. Chapter 62, Section 1, a resident is defined as:

- A natural person domiciled in Massachusetts, or
- A natural person who is not domiciled in Massachusetts but maintains a permanent place of abode within the state and spends more than 183 days of the taxable year in Massachusetts.

Additionally, Massachusetts Regulation 830 CMR 62.5A.1 provides additional details and guidance on determining residency status for income tax purposes. It expands on the definitions and concepts mentioned in M.G.L. Chapter 62, Section 1, and includes explanations of key terms such as "domicile¹," "permanent place of abode," and "days spent in Massachusetts."

¹ Domicile, the place which is an individual's true, fixed and permanent home, determined by established common law principles and the facts and circumstances in each case.

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In this instance, the Appellant testified that:

- The Appellant's residency was not established until the end of July 2022. (Appellant's Testimony). The Appellant provided evidence of this residency through utility bill information corresponding to his address in Michigan. (See Exhibit 3).
- Furthermore, the Appellant testified, in testimony that is credited, that he graduated from dental school in May 2022, from the University of Michigan, and successfully passed his board examinations shortly thereafter. (Appellant's Testimony).
- Following the completion of his academic and examination commitments, the Appellant took several weeks of vacation before establishing his residence in Massachusetts, specifically in Malden, at the end of July 2022. (Appellant's Testimony).
- The Appellant also testified that he began employment in his chosen field immediately after relocating and obtained health insurance through his employer, which he continues to hold as of the date of this writing.
- Appellant further testified that he had never been to Massachusetts prior to moving here in July of 2022. (Appellant's Testimony).

Based on the information provided, it appears that such a person would not likely be considered a resident of Massachusetts for tax purposes.

As mentioned earlier, under M.G.L. Chapter 62, Section 1, a resident is defined as:

- A natural person domiciled in Massachusetts, or
- A natural person who is not domiciled in Massachusetts but maintains a permanent place of abode within the state and spends more than 183 days of the taxable year in Massachusetts.

If the Appellant did not set foot in Massachusetts and did not maintain a permanent place of abode (such as an active lease) in Massachusetts, they would not meet the second part of the definition.

Because the Appellant had never stepped foot into Massachusetts prior to moving here, it is unnecessary to consider whether the Appellant is still domiciled in Massachusetts during his time at school. Domicile is the place where an individual has a true, fixed, and permanent home and principal establishment, and to which they intend to return whenever they are absent. A person can have only one domicile at a time, and it persists until it is abandoned in favor of a new one.

If the Appellant has not established a new domicile in another state and retains ties to Massachusetts (e.g., driver's license, voter registration), there may still be an argument that they are domiciled in Massachusetts, even if they did not physically reside in the

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state during the year in question. However, in light of the facts in this case, I find that Appellant had no connection prior to the Commonwealth before July 2022.

In light of the Appellant’s testimony, which I credit, I find that he was not legally a resident of Massachusetts for the tax year 2022 until July of that year and therefore his tax penalty must be waived.

Conclusion

In light of the Appellant’s testimony, which I credit, I find that he was not legally a resident of Massachusetts for the tax year 2022 and therefore his tax penalty must be waived. Because the penalty is waived due to the residency question, it is not necessary to consider whether the Appellant suffered from a financial hardship.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2230

Appeal Decision:

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: April 24, 2023

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

A hearing was held by telephone, on January 18, 2023. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 5/4/22 Appeal (7 pages)
- Exhibit 3: 1/3/23 Notice of Hearing (2 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2021 was Single with no dependents. The Appellant's federal AGI in 2021 was \$25,013 The Appellant turned sixty-two years old in 2021. The Appellants resided in Middlesex County throughout 2021. (Exhibit 1)
2. The Appellant appeals from the assessment of a six-month penalty assessed against on her 2021 income tax return, checking off "Other" as the basis of her appeal; and, stating that she had extensive trouble logging on to her account when she tried to apply for 2021 coverage through the Health Connector. (Exhibit 2)
3. The Appellant had health insurance coverage in 2021 only during the last three months of the year. (Exhibit 2)
4. The Appellant
5. (Appellant's testimony)

6. According to Table 2 of the 2021 Schedule HC Guidelines, the Appellants did not qualify for government-subsidized health insurance coverage in 2021, since their 2021 AGI income was more than \$51,720 for a family size of two.
7. According to Table 3, Affordability, based on their 2021 AGI and Married with no dependents tax filing status, the Appellants could have afforded to pay up to \$782/monthly for health insurance coverage in 2021.
8. According to Table 4, Premiums, based on his age and county of residence, the Appellant/husband could have purchased health insurance coverage in the Massachusetts private market in 2021 for a monthly premium of \$268, based on his 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.

As the Appellant had a three-month grace period at the beginning of 2021 to obtain health insurance coverage and had health insurance coverage during the last three months of 2021, at issue here is the Appellant’s failure to have coverage during the six months from April 2021 through September 2021.

The Appellant contends that, when he started his new employment on January 26, 2021, he understood that he was not eligible to apply for the employer-sponsored health insurance coverage offered by his employer for ninety days--until April 26, 2021, for coverage beginning May 1. I am doubtful that an employer would offer such a small window for a new employee to apply for health insurance coverage. The general purpose of the common three-month waiting period before new employees can enroll in employer-sponsored coverage is to avoid the costs of short-term employment. Even accepting the Appellant’s position, the Appellant still had five weekdays—from April 26 through April 30, 2021—to enroll in his employer’s coverage, but failed to do so.

In addition, throughout 2021, health insurance coverage was available to the Appellant in private market for a monthly premium of \$268. There is nothing in the record to support the conclusion that the Appellant made any effort to obtain coverage through the private market.

Therefore, I conclude that the Appellant has not established that affordable health insurance coverage was not available to him throughout 2021.

Accordingly, the Appellant’s 6-month tax penalty for 2021 shall not be waived in full.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2232

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: January 18, 2023

Decision Date: April 21, 2023

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

A hearing was held by telephone, on January 18, 2023. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was closed.

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

- Exhibit 1: Appeal Case Information from 2021 Schedule HC (1 page)
- Exhibit 2: 5/6/22 Appeal (9 pages)
- Exhibit 3: 1/3/23 Notice of Hearing (2 pages)
- Exhibit 4: 5/27/21 Open-Record Response (10 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants' filing status for 2021 was Married Filing Jointly with no dependents. The Appellants' federal AGI in 2021 was \$117,368 The Appellants turned twenty-eight and twenty-five years old in 2021. The Appellants resided in Barnstable County throughout 2021. (Exhibit 1)
2. The Appellants appeal from the assessment of a twelve-month penalty assessed against one spouse on their 2021 income tax return, checking off "Other" as the basis of their appeal. The Appellant further stated that he started a new job on January 26, 2021, that offered health insurance coverage after a 90-day waiting period, and that he was unable to obtain this coverage during the year. (Exhibit 2)
3. The Appellant did not have health insurance coverage throughout 2021. (Exhibit 2)
4. The Appellant started a new job on January 26, 2021, and the Appellant was eligible for health insurance coverage through his new employer after 90 days of employment. (Appellant's testimony; Exhibit 2)
5. The Appellant did not apply for health insurance coverage through his new employer until after the enrollment period had expired. (Appellant's testimony)

6. According to Table 2 of the 2021 Schedule HC Guidelines, the Appellants did not qualify for government-subsidized health insurance coverage in 2021, since their 2021 AGI income was more than \$51,720 for a family size of two.
7. According to Table 3, Affordability, based on their 2021 AGI and Married with no dependents tax filing status, the Appellants could have afforded to pay up to \$782/monthly for health insurance coverage in 2021.
8. According to Table 4, Premiums, based on his age and county of residence, the Appellant/husband could have purchased health insurance coverage in the Massachusetts private market in 2021 for a monthly premium of \$268, based on his 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.

The Appellant contends that, when he started his new employment on January 26, 2021, he understood that he was not eligible to apply for the employer-sponsored health insurance coverage offered by his employer for ninety days--until April 26, 2021, for coverage beginning May 1. I am doubtful that an employer would offer such a small window for a new employee to apply for health insurance coverage. The general purpose of the common three-month waiting period before new employees can enroll in employer-sponsored coverage is to avoid the costs of short-term employment. Even accepting the Appellant’s position, the Appellant still had five weekdays—from April 26 through April 30, 2021—to enroll in his employer’s coverage, but failed to do so.

In addition, throughout 2021, health insurance coverage was available to the Appellant in private market for a monthly premium of \$268. There is nothing in the record to support the conclusion that the Appellant made any effort to obtain coverage through the private market.

Therefore, I conclude that the Appellant has not established that affordable health insurance coverage was not available to him throughout 2021.

Accordingly, the Appellant’s 12-month tax penalty for 2021 shall not be reduced.

PENALTY ASSESSED

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

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 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: PA22-841

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 25, 2023

Decision Date: December 4, 2023

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 25, 2023. 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 (10-4-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-18-23) (with letter and documents) (14 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 39 during 2022, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance for February, March and April of 2023, but did not have health insurance for the remaining months of 2023. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$30,160.00 (Exhibit 2).
4. Appellant was unemployed for several months during 2023. (Appellant's testimony).
5. Appellant had been an international student and needed to obtain immigration assistance when they lost the employment. (Appellant's testimony, Exhibit 3).
6. Appellant's expenses for food, shelter, transportation and other necessities used all of the income. The expenses totaled approximately \$2,370.00 per month or \$28,440.00 per year. (Testimony).

7. Appellant no longer resides in Massachusetts. Appellant resided in Massachusetts from January 2022 until December 15, 2022.
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$298.00 for coverage. According to Table 3, Appellant was deemed to afford \$105.00.
10. Private insurance was not affordable for the Appellant in 2022. (Schedule HC for 2022).
11. 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 2022).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2022, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Appellant did have health insurance for February, March and April of 2022, but did not have health insurance for the remaining months of 2022. They have been assessed a tax penalty for four 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$30,160.00 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 39 years old in 2022, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$298.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used all of the income. Appellant no longer resides in Massachusetts. 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 2022 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: 4 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA22-844

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 25, 2023

Decision Date: December 4, 2023

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 25, 2023. 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 (10-4-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-20-23) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 23 during 2022, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2023. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$68,240.00 (Exhibit 2).
4. Appellant did not have health insurance available through the employer. (Appellant's testimony).
5. Appellant's expenses for food, shelter, transportation, and other necessities used only part of the income. The expenses totaled approximately \$2,845.00 per month or \$34,140.00 per year. Specifically, the monthly expenses were: (1) rent – \$1,000.00; (2) Utilities - \$300; (3) vehicle expenses (loan, insurance, maintenance, and gas) - \$895.00; (4) food - \$250.00; (5) household supplies - \$250.00; (6) credit card debt - \$150.00. (Testimony).

6. Appellant indicated he could have obtained insurance for approximately \$300.00 per month but did not deem that affordable. (Testimony).
7. Appellant still does not have any health insurance. (Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
9. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$277.00 for coverage. According to Table 3, Appellant was deemed to afford \$455.00.
10. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
11. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
12. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
14. Appellant was not homeless, was not thirty days or more behind in rent in 2022, and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2022. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$68,240.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$455.00 per month; according to Table 4, Appellant, who was 23 years old in 2022, from Bristol County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$277.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used only a portion of the income (\$34,140.00 out of \$68,240.00). Further, Appellant still does not have any health insurance. For these reasons, the waiver of the penalty is denied.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA22-845

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 25, 2023

Decision Date: December 4, 2023

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 25, 2023. 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 (10-4-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-23-23) (with letter) (4 pages);
- Exhibit 4: Final Appeal Decision TY2017 (4-23-19) (4 pages);
- Exhibit 5: Final Appeal Decision TY2018 (1-15-20) (3 pages); and
- Exhibit 6: Final Appeal Decision TY2021 (10-5-22) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 33 during 2022, from Bristol County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2023. (Appellant's testimony, Exhibit 2).
3. Appellant's Federal Adjusted Gross Income for 2022 was \$50,269.00 (Exhibit 2).
4. Appellant was divorced and had significant personal debt resulting from the divorce. (Appellant's testimony).

5. Appellant had planned to join the military and have health insurance through the military, but was injured during basic training. (Appellant's testimony).
6. Appellant's expenses for food, shelter, transportation, and other necessities used most of the income. The expenses totaled approximately \$3,330.00 per month or \$39,960.00 per year. (Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$290.00 for coverage. According to Table 3, Appellant was deemed to afford \$318.00.
9. Private insurance was affordable for the Appellant in 2022. (Schedule HC for 2022).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore may would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2022).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2022. 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellant, with an adjusted gross income of \$50,269.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$318.00 per month; according to Table 4, Appellant, who was 33 years old in 2022, from Bristol County, and filed the 2022 Massachusetts taxes as single with a family size of 1, would have had to pay \$290.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2. While Appellant was deemed to afford health insurance, it was only just under the amount that would have been affordable.

With regard to the hardship waiver of the penalty, Appellant claimed that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities. Appellant's expenses for necessities used most of the income. 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 2022 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA22-848

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: October 31, 2023

Decision Date: December 4, 2023

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 25, 2023. 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 (10-4-23) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2022 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (3-21-23) (with document) (4 pages);
- Exhibit 4: Open record documents submitted by Appellant (50 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 33 and 36 during 2022, from Middlesex County, filed married filing jointly on the tax return with a family size of 3. (Exhibit 2).
2. Appellant did have health insurance for 2023 through the Health Connector, but did not have a 1099-HC. (Appellant's testimony, Exhibit 2). Appellant's spouse was not assessed a penalty. They had a child in January 2022, and may have had health insurance as a result of the pregnancy/childbirth. Appellant's spouse also spent several months out of the country. (Testimony).
3. Appellants' Federal Adjusted Gross Income for 2022 was \$175,448.00 (Exhibit 2).

4. Appellant submitted documents pursuant to the open record that showed payments each month to the Health Connector for health insurance. (Exhibit 4). Appellant also submitted copies of the health insurance cards. (Exhibit 4).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2022 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2022.
6. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$741.00 for coverage. According to Table 3, Appellants were deemed to afford \$1,169.00.
7. Private insurance was affordable for the Appellants in 2022. (Schedule HC for 2022).
8. 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 2022).
9. Appellants claimed that they should be granted a waiver based on the grounds that they had insurance and on the grounds that they had expenses related to giving birth. (Testimony of Appellant, Exhibit 3).
10. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence or the sudden responsibility for providing full care for an aging parent or other family member; and did not incur such expenses due to the death of a spouse, family member, or partner who shared household expenses. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2022 (Exhibit 3).
11. Appellants were not homeless, were not thirty days or more behind in rent in 2022 and did not receive eviction notices. Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2022 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.

Appellants did have health insurance for 2022 but did not submit a 1099-HC. They have been assessed a tax penalty for twelve months for one of them and zero months for the other one. Appellant who was assessed a penalty 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 2022. According to Tables 3 and 4 of the HC Schedule for 2022, Appellants, with an adjusted gross income of \$175,448.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$1,169.00 per month; according to Table 4, Appellants, who were 33 and 36 years old in 2022, from Middlesex County, and filed the 2022 Massachusetts taxes as married filing jointly with a family size of 3, would have had to pay \$741.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had health insurance and that they had expenses related to the birth of a child. Appellant submitted documents showing that they did in fact have health insurance through the Health Connector for 2022. 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 2022 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: 12/0 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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: PA22-1140

Appeal Decision

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 7, 2023

Decision Date: December 18, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 7, 2023. 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 November 24, 2023

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated May 4, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-nine years old and is single. He lives in Berkshire County, Massachusetts.
2. Appellant works in the restaurant business. Appellant was doing a renovation to his residence in 2022 and he ran over budget and did not have enough money for health insurance. The last time Appellant had health insurance was 2019. Appellant had several notices in 2022 that his electricity was going to be shut off but it was never shut off. Appellant indicated that he had zero dependents and his family size was one
3. Appellant does have health insurance in 2023 with the Health Connector obtained in May 2023.
4. The Appellant's monthly expenses totaled \$3,120.00, consisting of mortgage \$900.00, heat & electricity \$500.00, internet & cable \$50.00 car payment \$750.00, car insurance \$60.00, food \$200.00, credit card \$200.00 entertainment \$100.00, toiletries \$100.00, clothing \$500.00, water bill \$60.00 .
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal " During 2022, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities(gas, electric, heating oil, water, primary telephone".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance,because Appellant's income of \$80,041.00 was more than \$38,640.00. The monthly premium for health insurance available on the private market in Berkshire County for a 29 year old single person with one dependent was \$295.00. The tables reflect that Appellant could afford

\$533.60 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant works in the restaurant business. Appellant was doing a renovation to his residence in 2022 and he ran over budget and did not have enough money for health insurance. The last time Appellant had health insurance was 2019. Appellant had several notices in 2022 that his electricity was going to be shut off but it was never shut off. Appellant indicated that he had zero dependents and his family size was one

The Appellant did submit a Statement of Grounds for Appeal-2022 under the grounds for Appeal “ During 2022, you received a shut-off notice, were shut-off; or were refused delivery of essential utilities(gas, electric, heating oil, water, primary telephone”.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$19,320.00 for a single person. In addition a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2022 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 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$80,041.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$533.60 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$295.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has not shown that he was precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2022 penalty assessed is **UPHELD**.

PENALTY ASSESSED

Number of Months Appealed: ____12 ____ Number of Months Assessed: ____12____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-865

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 3, 2023

Decision Date: December 9, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2022. The Appellant appeared at the hearing, which was held by telephone, on November 3, 2023. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. I left the record open for the Appellant to provide additional information, which the Appellant so provided. The hearing record consists of the Appellant's testimony and the following documents that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2022 (1 page).
- Exhibit 2: The Statement of Grounds for Appeal and supporting documentation submitted by the Appellant (5 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on November 3, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision PA 20-456
- Exhibit 5: Open Record Request, dated November 3, 2023
- Exhibit 6: Appellant's response to Open Record Request

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).

2. The Appellant turned 30 in March 2022. (Exhibit 1).
3. The Appellant lived in Middlesex County in 2022. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2022 was \$66,562. (Exhibit 1).
5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2022. The Appellant was assessed a 12-month tax penalty for 2022. (Exhibit 1).
6. The Appellant did not check off a box on their Statement of Grounds for Appeal. The Appellant submitted one page of a federal form 1095-C showing that they were offered employer-sponsored health insurance throughout 2022 and that their monthly employee contribution would have been \$295.63, except for November, when the contribution was \$261.59. (Exhibit 2).
7. The Appellant appealed a 12-month tax penalty for 2020, and the penalty was waived in its entirety in Final Appeal Decision PA 20-456. (Exhibit 4).
8. A hearing on the Appellant's appeal took place telephonically on November 3, 2023. (Exhibit 3). The Appellant appeared at the hearing.
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2022 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2022. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2022.
10. The Appellant's AGI of \$66,562 was more than 300% of the Federal Poverty Level, which was \$38,640 for a single person in 2022. (See Table 2 of Schedule HC-2022 and 956 CMR 12.04).
11. According to Table 3 of Schedule HC for 2022, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$66,562, could have afforded to pay \$443 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2022 AGI was \$51,521 or more could have spent 8% of their earnings on health insurance; 8% of \$66,562 is \$5,324, and one-twelfth of \$5,324 is \$443.
12. According to Table 4 of Schedule HC for 2022, the least expensive health insurance plan available on the private market to the Appellant, a single person age 29 living in Middlesex County in January 2022, cost \$277 per month.

13. The Appellant testified that they paid \$295 per month for health insurance coverage throughout 2022 and believed that their health insurance met Massachusetts requirements.
14. The Appellant testified that they began working for their current employer in early 2020. I mentioned to the Appellant that the decision on their tax penalty appeal for 2020, PA 20-456, concluded that their employer-sponsored health insurance that year did not meet MCC requirements. (Exhibit 4). The Appellant testified that they when they became aware that their 2020 health insurance did not meet MCC requirements, they enrolled in a different plan the next year that had a higher premium and that they had confirmed that the plan met Massachusetts requirements.
15. The Appellant testified that they contacted their employer's human resources department in March 2023 because they had not obtained proof for Massachusetts tax purposes that they had been enrolled in health insurance in 2022. The Appellant testified that the human resources representative, who was based in Worcester, told them that the law had changed and that it was no longer a requirement that they file proof of health insurance coverage with their taxes.
16. The Appellant testified that they estimated they had the following monthly expenses in 2022: \$1000 for rent; \$216 for utilities (based on \$50 per week); \$260 for car payment; \$120 for car insurance; \$260 for food (based on \$60 per week; \$60 for phone; and \$35 for clothes (based on \$20-300 per year).
17. I left the record for the Appellant to provide documentation showing that they were enrolled in health insurance in 2022 that met Massachusetts MCC requirements, such as a Form MA 1099 HC. The open record request stated that if the Appellant did not provide a Form MA 1099 HC, they should submit documentation, such as a covered services summary, that would enable the Health Connector to determine whether the health plan in which they were enrolled in 2022 met Massachusetts MCC requirements. (Exhibit 5).
18. In response to my Open Record Request, the Appellant submitted two pages the Form 1095-C, plus a summary of benefits for a health insurance plan effective January 1, 2023 to December 31, 2023. The Form 1095-C showed that the Appellant was enrolled in employer-sponsored health insurance throughout 2022 and that their monthly contribution was \$295.63, except for November, when it was \$261.59. (Exhibit 6).

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met Massachusetts minimum creditable coverage ("MCC") standards for any month in 2022. The issue to be decided is whether the tax penalty should be waived in whole or in part.

I begin by summarizing the legal rules underlying this appeal. The tax penalty was enacted by the Massachusetts Legislature to encourage compliance with G.L. c. 111M, § 2, also called the "individual

mandate.” The mandate requires every adult resident of Massachusetts to obtain health insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority (“Connector”). G.L. c. 111M, § 2(a). Any health insurance policy must also satisfy the Massachusetts MCC standards for a taxpayer to avoid the penalty.

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

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

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program because the Appellant’s AGI exceeded 300% of the FPL. Finding of Fact No. 10.

Second, I am unable to determine whether the Appellant had access to affordable health insurance meeting MCC standards through employment. The Appellant submitted a federal Form 1095-C, which showed that the Appellant had health insurance throughout 2022 and that the Appellant’s monthly contribution for the insurance was \$295.63, except for November, when the contribution was \$261.59. Finding of Fact No. 18. Through an Open Record Request, I asked the Appellant to provide documentation that would enable the Health Connector to determine whether their 2022 health insurance met MCC requirements, but they provided a summary of benefits for a 2023 health insurance plan in response to my request. Findings of Fact Nos. 17 and 18 and Exhibits 5 and 6. As such, I am unable to make any determination as to whether the Appellant’s 2022 health insurance met MCC standards.

Third, I conclude that the Appellant theoretically could have obtained affordable health insurance meeting MCC requirements on the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$443 per month for health insurance, and according to Table 4 of the Schedule HC, the Appellant could have purchased health insurance on the private market for \$277 per month. Findings of Fact Nos. 11 and 12. However, I find that the Appellant was effectively blocked from purchasing insurance on the private market because they had a genuine belief that their employer-sponsored health insurance, for which they were paying \$295.63 per month, met MCC requirements.

Findings of Fact Nos. 13 and 14. As such, the Appellant had no reason to explore the purchase of health insurance on the private market.

Reviewing the totality of the evidence, I find that it is appropriate to waive the Appellant's 12-month penalty in its entirety. Although the record does not establish whether the Appellant had access to affordable health insurance meeting MCC requirements through employment, it does establish that the Appellant paid more for insurance through employment (\$295.63 per month, except for November) than they might have paid through the private market (\$277 per month) and that the Appellant made a good faith effort to comply with, and believed they were complying with, the Massachusetts individual mandate. Findings of Fact Nos. 11-14. As such, I conclude that it would be inequitable to impose a penalty on the Appellant. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(2)(c). However, the Appellant is urged to confirm whether any employer-sponsored health insurance in which Appellant is enrolled meets MCC requirements, and if it does not, to explore enrolling in health insurance meeting MCC requirements on the private market.

The Appellant should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2022. 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 2022.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-905

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 20, 2023

Decision Date: December 7, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 20, 2023, 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—2022

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 32-years-old, is single and does not have children. He did not have health insurance in 2022. (Testimony, Ex. 2)
2. Prior to 2022, the last time the appellant had health insurance was in 2021 through his employer for whom he had worked for approximately ten years. (Testimony)
3. The appellant started a new job in 2022 in New Hampshire, and believed that health insurance would be offered to him. He inquired about it several times after he began working, and was advised in March, 2022, that it would not be available. The employer explained that he would be obligated to also provide insurance to the only other employee in the business, but that it was not feasible because there was such high turnover in that position. (Testimony)
4. The appellant did not investigate any other health insurance options for 2022. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2022 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant investigated health insurance options for 2023 through the Health Connector and was advised that he had missed the open enrollment period. He appealed the decision and was determined eligible to enroll retroactive to March 1, 2023. He has been enrolled since that time. (Testimony)
6. The appellant reported an adjusted gross income of \$62,380.00 on his 2022 federal tax return, and reported that he was single with no dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1) claiming that the individual mandate did not apply to him during 2022 for “other” reasons. He also submitted a letter with his statement in which he stated in part that his employer advised him several times in 2022 that it would provide health insurance before ultimately telling him that nothing would be made available.

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 2022, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2022, he had insurance for many years through his employer. He testified that he started a new job in 2022 and believed that the employer offered health insurance. He testified that he inquired about the matter several times after he commenced employment and was eventually told in March, 2022, that no insurance would be offered. He testified that he did not investigate any other options for 2022. Finally, he testified that he has been enrolled in insurance through the Health Connector since March 1, 2023.

The appellant offered credible testimony that he began a new job in 2022 on the assumption that the employer offered health insurance, and relied to his detriment on the employer’s representation that it would be made available. While it would have been more prudent to ascertain what benefits were offered in advance of starting the job, the appellant did not appear to exhibit an intent to evade the mandate. Furthermore, he had employer insurance for many years prior to 2022, and enrolled in insurance through the Health Connector in 2023, thereby demonstrating that the requirement to purchase insurance was not lost on him.

Based on the totality of the evidence, it is concluded that the appellant’s reliance on the employer’s representations regarding insurance was not unreasonable and his 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 2022 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA22-981

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: November 28, 2023

Decision Date: November 30, 2023

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 28, 2023. The procedures to be followed during the hearing were reviewed with the Appellant wife 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 25, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated April 11, 2023
- Exhibit 4: Written Statement of Appeal Dated April 11, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is forty-two years old and is married with one child. She lives in Middlesex County, Massachusetts.
2. Appellant and her husband's jobs do not provide health insurance. Appellant has applied to the Health Connector but the premium of around \$700.00 last year was too expensive. The husband did not receive his green card until around 2019. Appellant's documents produced indicate that she was in arrears on several bills including her mortgage and water bill.
3. Appellants did not have health insurance in 2022 or 2023 and have not had health insurance since about 2012.
4. The Appellant's monthly expenses totaled \$6,970.00, consisting of mortgage \$1,854.00, heat & light \$300.00, internet \$189.00, cell phone \$225.00, car payments \$800.00, car insurance \$350.00, car gas \$480.00, food \$600.00, credit card \$1,400.00, entertainment \$100.00, husband's child support \$672.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2022 under "Other. During 2022 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable" and under "During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" and "During 2022, you were homeless; more than thirty days in arrears in rent or mortgage payments" and " During 2022, you received a shut-off notice , were shut off; or were refused delivery of essential utilities" I will hear this appeal under all grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2022. 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 2022.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$154,507.00 was more than \$65,880.00. The monthly premium for health insurance available on the private market in Middlesex County for a 41 year old married person with one child was \$798.00. The tables reflect that Appellant could afford \$1,030.04 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant and her husband’s jobs do not provide health insurance. Appellant has applied to the Health Connector but the premium of around \$700.00 last year was too expensive. The husband did not receive his green card until around 2019. Appellant’s documents produced indicate that she was in arrears on several bills including her mortgage and water bill.

The Appellant did submit a Statement of Grounds for Appeal-2022 under “Other. During 2022 other circumstances, such as: Applying the Affordability Tables in Schedule HC to you is inequitable” and under “During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” and “During 2022, you were homeless; more than thirty days in arrears in rent or mortgage payments” and “ During 2022, you received a shut-off notice , were shut off; or were refused delivery of essential utilities” I will hear this appeal under all grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2022, 150 percent of the FPL was \$32,940.00 for a married person with one child. *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 2 penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2022. 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 2022 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$154,507.00 in 2022, and Appellant’s filing status was married with one child. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2022 Massachusetts Schedule HC, Appellant could afford to pay \$1,030.04 Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$798.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$1,030.04 for health insurance coverage because of her income. Private insurance in the market place was \$798.00 per month, which is less than she could afford. On these facts, I find that Appellant has shown that she was not precluded from purchasing affordable health insurance during 2022. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant’s appeal is **DENIED**, and the 2022 penalty assessed is **UPHELD**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2320

Appeal Decision: The appeal is approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: March 9, 2023

Decision Date: June 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on March 9, 2023. 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: The Statement of Grounds for Appeal provided by the Appellant, signed and dated May 10, 2022 (7 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on March 9, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 43 in November 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant lived in Suffolk County throughout 2021. (Exhibit 1) and Appellant Testimony.
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$37,233. (Exhibit 1).

4. According to the Appellant's Appeal Case Information from Schedule HC, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements in January through October 2021. The Appellant was assessed a seven-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the seven-month penalty assessment in May 2022. The Appellant checked off the following box in the Appellant's Statement of Grounds for Appeal: "During 2021 other circumstances apply such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2)
6. The Appellant attached to their Statement of Grounds a letter stating that they had no earned income in 2021 and were eligible to receive government-subsidized insurance. The Appellant further stated in the letter that because of a misunderstanding of the process, they failed to apply for government-subsidized insurance in a timely manner and that they are now enrolled in MassHealth. The Appellant attached copies of what the Appellant represented to be their MassHealth and HealthNet cards.
7. A hearing on the Appellant's appeal took place telephonically on March 9, 2023. (Exhibit 3).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
9. The Appellant's AGI of \$37,233 was less than than 300% of the Federal Poverty Level, which was \$38,280 for a household of one in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$37,233, could afford to pay \$155 per month for health insurance. The calculation is as follows: Table 3 states that an individual with no dependents whose 2021 AGI was between \$31,901 and \$37,233 could spend 5% of their earnings on health insurance; 5% of \$37,233 is \$1,861, and one-twelfth of \$1,861 is \$155.
11. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that the Appellant, a single person age 42 living in Suffolk County in January 2021, could have purchased on the private market cost \$294 per month.

12. The Appellant testified that they lost their job in 2020 due to the COVID-19 pandemic and were unemployed throughout 2021.
13. The Appellant testified that most of their income in 2021 was from unemployment payments, including additional unemployment payments that they received because of the COVID-19 pandemic. The Appellant testified that of their \$37,233 in income, approximately \$1,000 was from dividends.
14. The Appellant testified that they did not know they were eligible for government-subsidized insurance until October 2021, when they went to the hospital for medical attention, and a social worker there informed them that they qualified for government-subsidized insurance.
15. The Appellant testified that they applied for and enrolled in MassHealth as soon as they knew they were eligible for it, and that they remain enrolled in MassHealth.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a seven-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards from January through October 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

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

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

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

First, I conclude that because the Appellant was unemployed throughout 2021, they did not have access to affordable health insurance that met MCC requirements through an employer. Finding of Fact No. 12.

Second, I conclude that the Appellant did not have access to affordable health insurance that met MCC requirements through the private market. According to the Schedule HC, the maximum amount the Appellant could have afforded to pay for health insurance was \$155 per month, but the least expensive plan available to the Appellant on the private market cost \$294 per month. Findings of Fact Nos. 10 and 11.

Third, I conclude that the Appellant effectively did not have access to government-subsidized health insurance from January through October 2021. Because the Appellant's income was less than 300% of the Federal Poverty Level in 2021, the Appellant was eligible for government-subsidized health insurance. Finding of Fact No. 9. In addition, the Appellant was eligible for government-subsidized health insurance because they received unemployment compensation in 2021, and the American Rescue Plan provided that any person who received unemployment compensation in 2021 was eligible for government-subsidized health insurance. 26 U.S.C. § 36B(g); Finding of Fact No. 13. However, the Appellant testified that they did not know that they were eligible for government-subsidized health insurance until October 2021, when they sought medical attention, and a social worker informed them that they could obtain government-subsidized health insurance. Finding of Fact No. 14. I find the Appellant's testimony to be credible because their Schedule HC shows that they had health insurance that complied with MCC standards as of November 2021, which is consistent with the Appellant's testimony that they enrolled in government-subsidized health insurance as soon as they knew they were eligible for it. Finding of Fact No. 15 and Exhibit 1. The Appellant's lack of knowledge that they were eligible for government-subsidized health insurance prior to October 2021 effectively prevented the Appellant from accessing it.

Reviewing the totality of the evidence, I conclude that the Appellant's seven-month penalty should be waived. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

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

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2344

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: April 3, 2023

Decision Date: May 31, 2023

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 April 3, 2023. 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 March 9, 2023

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal, dated May 3, 2022

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FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is twenty-six years old and is single. She lives in Essex County, Massachusetts.
2. Appellant stated that she had health insurance in 2019 through 2020 but left her job and took a job with the Commonwealth as an hourly worker and was not offered health insurance. Appellant thought she had insurance and went to the hospital for a procedure and was informed that she did not have health insurance but had MassHealth insurance. Appellant later found out that she did not have MassHealth insurance.
3. The appellant does have health insurance in 2023 and she did have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 under “Other. During 2021 other circumstances, 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 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
6. Based on the appellant’s federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant’s income of \$49,4118.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Essex County for a 25 year old single person was \$263.00. The tables reflect that Appellant could afford \$312.93 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant stated that she had health insurance in 2019 through 2020 but left her job and took a job with the Commonwealth as an hourly worker and was not offered health insurance. Appellant thought she had insurance and went to the hospital for a procedure and was informed that she did not have health insurance but had MassHealth insurance. Appellant later found out that she did not have MassHealth insurance.

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

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$49,411.00 in 2021, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$312.93 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$263.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$312.93 for health insurance coverage because of her income. Private insurance in the marketplace was \$260.00 per month, which is less than she could afford. On these facts, I find that Appellant has not shown that she was precluded from purchasing affordable health

insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **DENIED**, and the 2021 penalty assessed is **AFFIRMED**.

PENALTY ASSESSED

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

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2469

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 18, 2023

Decision Date: May 22, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 18, 2023. 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 April 24, 2023
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal, dated May 18, 2022
- Exhibit 4: Written Statement of Appeal Dated May 18, 2022

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is fifty-three years old and is single. She lives in Middlesex County, Massachusetts. Appellant works in the IT business.
2. Appellant stated that she had Tufts health insurance in 2018, 2019 and 2020. Appellant stated that she tried to obtain a personal care physician, but no medical facility would accept her as a patient. Appellant did not call the Health Connector customer service line to discuss her issue.
3. The appellant does not have health insurance in 2023 nor did she have health insurance in 2022.
4. The Appellant did submit a Statement of Grounds for Appeal-2021 but did not select a ground for appeal
5. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2021. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2021.
6. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, since Appellant's income of \$137,838.00 was more than \$38,280.00. The monthly premium for health insurance available on the private market in Middlesex County for a 51 year old single person was \$390.00. The tables reflect that Appellant could afford \$918.92 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant stated that she had Tufts health insurance in 2018, 2019 and 2020. Appellant stated that she tried to obtain a personal care physician, but no medical facility would accept her as a patient. Appellant did not call the Health Connector customer service line to discuss her issue. Based on

Appellant's testimony that she could not find a personal care physician within the whole of Tufts medical system, I find that the Appellants testimony is not credible..

The Appellant did submit a Statement of Grounds for Appeal-2021 but did not select a ground for appeal

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage "so long as it is deemed affordable" under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level ("FPL") are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release ("TIR") 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2021, 150 percent of the FPL was \$19,140.00 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 2021 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2021. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2021 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$137,838.00 in 2021, and Appellant's filing status was single . EX 2. According to the Affordability Schedule established by the Connector's board and included in the Instructions and Worksheets of the 2021 Massachusetts Schedule HC, Appellant could afford to pay \$918.92 monthly for health insurance. See 2021 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of 390.00 monthly for coverage. *Id.* at Table 4.

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

Appellant is deemed to afford \$918.92 for health insurance coverage because of her income. Private insurance in the marketplace was \$390.00 per month, which is less than she could afford. On these facts, I find that Appellant has not shown that she was precluded from purchasing affordable health

insurance during 2021. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is not exempt from a tax penalty for her non-compliance with the individual mandate.

Accordingly, Appellant's appeal is **DENIED**, and the 2021 penalty assessed is **AFFIRMED**.

PENALTY ASSESSED

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

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

OR

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2491

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: May 26, 2023

Decision Date: June 16, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on May 26, 2023. 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 that were admitted into evidence:

- Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).
- Exhibit 2: Statement of Grounds for Appeal (5 pages).
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing on May 26, 2023 (2 pages).
- Exhibit 4: Final Appeal Decision in PA 20-1001 (3 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 29 in August 2021, filed their federal income tax return as a married person filing separately with no dependents claimed. (Exhibit 1).
2. The Appellant's legal residence was in Worcester County throughout 2021. (Exhibit 1) and Appellant Testimony.
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$30,514. (Exhibit 1).

4. According to the Appellant's Appeal Case Information from Schedule HC, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for the entirety of 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the twelve-month penalty assessment in May 2022. The Appellant wrote "Debt should be included in this" on Appellant's Statement of Grounds for Appeal.
6. A hearing on the Appellant's appeal took place telephonically on May 26, 2023. (Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. The Appellant's AGI of \$30,514 was less than 300% of the Federal Poverty Level, which was \$38,280 for a household of one in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a married person filing separately with no dependents and claimed an adjusted gross income of \$30,514, could have afforded to pay \$106 per month for health insurance. The calculation is as follows: Table 3 states that a single individual with no dependents whose 2021 AGI was between \$25,521 and \$31,900 could have spent 4.2% of their earnings on health insurance; 4.2% of \$30,514 is \$1281, and one-twelfth of \$1281 is \$106.
10. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that the Appellant, a married person filing separately and age 28 living in Worcester County in January 2021, could have purchased on the private market cost \$263 per month.
11. The Appellant testified that they got married on October 8, 2021.
12. The Appellant testified that throughout 2021, they worked as a full-time, salaried instructional assistant at a school and that this job was their sole source of income. The Appellant testified that their bi-weekly take-home pay from this job was approximately \$854.
13. The Appellant testified that their employer offered health insurance but that they could not afford it. The Appellant testified that they did not remember exactly how much their employer-sponsored health insurance cost, but that they think that they would have had to contribute around \$300 biweekly to the premiums for the employer-sponsored health insurance.

14. The Appellant testified that they believed that they contacted the Health Connector in 2021 about obtaining health insurance but that they do not remember the Health Connector telling them that they were eligible for government-subsidized insurance.
15. The Appellant testified that their spouse worked as an instructional assistant at a different school throughout 2021 and earned less money than the Appellant. The Appellant testified that their spouse looked into obtaining health insurance through their (i.e., the spouse's) employer but that the health insurance was unaffordable to the Appellant and their spouse.
16. The Appellant testified that they and their spouse paid \$1100 in monthly rent from January through June 2021. The Appellant testified that they and their spouse moved into the Appellant's parents' house in late June or early July 2021 because they could no longer afford their rent. The Appellant testified that from July 2021 through December 2021, they and their spouse each paid the Appellant's parents \$375 per month as rent.
17. The Appellant testified that they estimated their other monthly expenses in 2021 to be as follows: \$100 for Wifi; \$160 for gas; \$116 for car insurance; \$120 for cellphone; \$160 for food; and \$100 to \$200 for household items. Thus, the Appellant's monthly living expenses were approximately \$1406 in January through June 2021 and \$1231 thereafter.
18. The Appellant testified that they did not have health insurance in 2021 because they were in debt "up to their eyeballs" and had to make a choice between "having money in the bank or going broke" to pay for health insurance. The Appellant testified that they wish they could have afforded health insurance in 2021 because they suffered from anxiety and depression during the pandemic, and health insurance would have been useful to them.
19. The Appellant testified that they had stopped paying their heating bills at their former residence before moving in with their parents and that they are currently in debt of around \$2,000 for past heating costs. The Appellant testified that their total debt is more than \$10,000, excluding student loans. The Appellant testified that they defaulted on their student loans. The Appellant testified that they did not know the total amount of their student loan debt and are currently working out a payment plan with their lenders.
20. The Appellant testified that they and their spouse obtained health insurance through the Health Connector in late 2022 and now pay \$294 per month for health insurance.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

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

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

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

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards on the private market. According to the Schedule HC, the most the Appellant could have afforded to pay each month for health insurance was \$106, but the least expensive plan the Appellant could have purchased on the private market cost \$263 per month. Findings of Fact Nos. 9 and 10.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC requirements through their employer. The Appellant testified that they believe the health insurance offered by their employer would have cost them \$300 biweekly. Again, though, according to the Schedule HC, the Appellant could only have afforded to spend \$106 per month on health insurance. As such, the employer-sponsored health insurance was not affordable to the Appellant.

Third, I conclude that while affordable health insurance meeting MCC standards was theoretically available to the Appellant from January to October 2021 through a government-subsidized program, this insurance was not in fact affordable to the Appellant because the Appellant suffered a hardship. Since the Appellant’s income was less than 300% of the federal poverty line, they were eligible for affordable government-subsidized insurance when they were single (i.e., from January to October 2021). Finding of Fact No. 8. Government-subsidized insurance is not available to married persons filing separately, so it would not have been available to Appellant after their October 8, 2021 marriage. 26 U.S.C. 36B(c)(1)(C).

However, I find that the Appellant could not have afforded to purchase any insurance, including government-subsidized insurance. The Appellant testified that their monthly take-home pay in 2021 was

approximately \$1850 (i.e., because their biweekly \$854 pay multiplied by 26 weeks is \$22,204, and \$22,204 divided by 12 months is \$1850). Finding of Fact No. 12. The Appellant further testified that their monthly expenses were approximately \$1406 in January through June 2021 and \$1231 thereafter. Findings of Fact Nos. 12, 13, and 17. At the same time, the Appellant testified that they owed approximately \$2000 from prior heating bills and had total debt of more than \$10,000, excluding student loans. Finding of Fact No. 19. I find the Appellant's testimony as to their income, expenses, and debt to be credible, as the numbers cited by the Appellant seem reasonable. Given that the Appellant's basic expenses and debt exceeded their income, I find that purchasing health insurance would likely have caused them to experience a serious deprivation of food, shelter, clothing, or other necessities, which in turn constitutes a hardship under 956 CMR 6.08(1)(e).

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2498

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 2, 2023

Decision Date: June 20, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 2, 2023. The Appellant's mother also appeared as a witness. The procedures to be followed during the hearing were reviewed with the Appellant and their mother, who were both 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 that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supplemental documentation (7 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on June 2, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who turned age 31 in December 2021, filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant's legal residence was in Plymouth County throughout 2021. (Exhibit 1) and Appellant Testimony.
3. The Appellant's federal Adjusted Gross Income ("AGI") for 2021 was \$73,308. (Exhibit 1).

4. According to the Appellant's Appeal Case Information from Schedule HC, the Appellant did not have health insurance that met Massachusetts minimum creditable coverage (MCC) requirements for the entirety of 2021. The Appellant was assessed a twelve-month tax penalty for 2021. (Exhibit 1).
5. The Appellant filed an appeal of the twelve-month penalty assessment in May 2022. The Appellant checked the following box on their Statement of Grounds for appeal: "During 2021, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities." The Appellant also made the following handwritten note: "Employer did not offer health ins. to me. I didn't (wasn't offered) to work enough hours to qualify."
6. A hearing on the Appellant's appeal took place telephonically on June 2, 2023. (Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
8. The Appellant's AGI of \$73,308 was more than 300% of the Federal Poverty Level, which was \$38,280 for a household of one in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2021, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$73,308, could have afforded to pay \$488 per month for health insurance. The calculation is as follows: Table 3 states that a single individual with no dependents whose 2021 AGI was \$51,041 or more could have spent 8% of their earnings on health insurance; 8% of \$73,308 is \$5864, and one-twelfth of \$5864 is \$488.
10. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that the Appellant, a single person with no dependents living in Plymouth County in January 2021, could have purchased on the private market cost \$263 per month.
11. The Appellant testified that they worked as a glazier and could have obtained health insurance in 2021 through their union if they had worked a certain number of hours during a six-month time period.
12. The Appellant testified that their work in 2021 was sporadic, however, and that they did not in fact work enough hours to qualify for health insurance through their union. The Appellant testified that they did not remember how many hours they needed to work in order to qualify for health insurance through their union.

13. The Appellant testified that they earned all of their income in 2021 from their work as a glazier and from selling goods on-line. The Appellant testified that because their work was sporadic, there were points during 2021 when they were unemployed.
14. The Appellant testified that they did not know that there is a legal requirement in Massachusetts that residents have health insurance and that there is a tax penalty for residents who do not have health insurance. The Appellant testified that they believed that the only consequence for not having health insurance is that a person must pay out of pocket for medical care.
15. The Appellant testified that they are now aware that they had paid tax penalties in previous years for not having had health insurance. I asked the Appellant how they could have been unaware of the legal requirement that they have health insurance if they had previously paid tax penalties for not having health insurance. The Appellant testified that their stepfather prepared their taxes and never told them that they were paying a penalty for not having had health insurance.
16. The Appellant testified that they now have health insurance, which they obtained through the state, and intend to maintain health insurance going forward.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellant's appeal from the DOR's assessment of a twelve-month tax penalty because the Appellant's tax forms indicated that they did not have health insurance that met minimum creditable coverage ("MCC") standards during any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

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

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

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

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through employment. The Appellant credibly testified that they did not work enough hours in 2021 to be eligible for health insurance through their union that year. Findings of Fact Nos. 11 and 12.

Second, I conclude that the Appellant did not have access to affordable health insurance meeting MCC requirements through a government-subsidized program because their income exceeded 300% of the Federal Poverty Level. Finding of Fact No. 8.

Third, I conclude that although the Appellant theoretically could have obtained affordable health insurance meeting MCC standards on the private market, the Appellant suffered a hardship such that they could not actually afford such insurance. The Appellant credibly testified that during 2021, their work fluctuated, and there were periods of time in which they did not have work. Findings of Fact Nos. 12 and 13. As a result, although it appears, looking backward, that the Appellant could have afforded to purchase MCC-compliant health insurance on the private market, such health insurance would not have appeared affordable to the Appellant during their various periods of unemployment and uncertainty in 2021.

Reviewing the totality of the evidence, I conclude that it is appropriate to waive the Appellant's twelve-month penalty. As a result, I waive the Appellant's twelve-month penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(3).

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2571

Appeal Decision: Denied.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 6, 2023

Decision Date: December 15, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 6, 2023. The Appellant Spouse did not attend. 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: Appeal Case Information from Schedule HC 2021.
- Exhibit 2: Statement of Grounds for Appeal signed by the Appellant on June 8, 2022, with attachments.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated May 17, 2023.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated June 6, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in February 2021, and their Spouse, age 28 In May, 2021 filed their Federal Income Tax return as a married couple with no dependents (Exhibit 1).
2. The Appellants lived in Worcester County, MA in 2021 (Exhibit 1).
3. The Appellants' Federal Adjusted Gross Income for 2021 was \$96,645 (Exhibit 1).
4. According to the Schedule HC 2021, the Appellants had health insurance for the period of October through December but did not have insurance for the period of January through September in tax year 2021 (Exhibit 1).
5. The Appellants have each been assessed a six-month tax penalty for 2021. The Appellant filed an appeal of the assessment in June, 2022 (Exhibits 1, 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellants filing the Federal tax return as a married couple with no dependents, with an annual adjusted gross income of \$96,645 could afford to pay \$644 per month for health insurance. In accordance with Table 4, the Appellants with one member age 28, living in Worcester County, could have purchased private insurance for \$526 per month (Schedule HC for 2021). Private insurance was affordable for the Appellants.
8. The Appellants were not financially eligible for ConnectorCare because their income of \$96,645 was greater than 300% of the federal poverty level which was \$51,720 for a household of two (Table 2 of Schedule HC-2021).
9. The Appellant testified that they did not have health insurance in January and February but purchased a Tufts plan at the end of February. The Appellant said that they went to use the insurance and were told it was not active. The Appellant said that they found this insurance through the Health Connector and paid \$5,000 for the coverage for the period of March through September. The Appellant was asked if they got their \$5,000 back since the insurance was never active and the Appellant said no. The Appellant's testimony was not credible or supported by evidence (Appellant Testimony).
10. The Appellant signed the Statement of Grounds for Appeal on June 8, 2022 and checked the box indicating that purchasing health insurance would have caused the household to experience a serious deprivation of food, clothing shelter or other necessities. The Appellant did not note that they had purchased health insurance (Exhibit 2).
11. The Appellant included a letter and documents verifying the termination of their contract with their employer effective September 8, 2021. The Appellant was to receive a one-time payment of \$25,544 when this agreement was signed. The Appellant also submitted legal bills totaling \$4,000, court fees \$155.25¹, student loan interest of \$4,360 paid in tax year 2021, and a copy of the Appellant's mortgage statement verifying their monthly payment of \$1,787.33. The Appellant did not mention purchasing health insurance in the letter and did not verify any health insurance payments (Exhibit 2).
12. The Appellant testified that they lost their Driver's license and had to pay approximately \$800 per month to have someone they found on Craig's list drive them to and from work. The Appellant said this was all paid in cash and they could not verify the expense (Appellant Testimony).
13. The Appellant was advised that the record would be left open to allow the Appellant to submit proof of their Tufts insurance payment. The regulations regarding financial hardship were explained and the Appellant was informed that they could submit documentation of their day to day living expenses including rent/mortgage, utilities, car, food, and any other expenses.

¹ The additional fee dated in 2022 was not included.

14. The record was left open until June 23, 2023 to allow the Appellant to submit additional information (Exhibit 4).

15. The Appellant did not submit any additional evidence during the record open period.

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 and their Spouse filed a joint income tax return for tax year 2021. According to the Appellants’ Schedule HC for 2021, the Appellants did not have health insurance for the period of January through September in tax year 2021 and consequently each person has been assessed a six-month penalty. The Appellants submitted a statement of grounds for this appeal in June 2022. The Appellants reported financial hardship as the basis of their appeal.

At the Hearing the Appellant alleged that they purchased a health insurance plan for \$5,000 to be effective for the months of March through September in 2021. The Appellant testified that they purchased the Tufts plan through the Health Connector, but it was never activated. The Appellant said they never received a refund of their \$5,000. This testimony was not credible or supported by any evidence or Health Connector policy.

To determine if the six-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 Appellants through employment, through private insurance, or through a government sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2021, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an adjusted gross income of \$96,645 could afford to pay \$644 per month for health insurance. In accordance with Table 4, the Appellants with one person age 28, living in Worcester County, could have purchased private insurance for \$526 per month (Schedule HC for 2021). Private insurance was affordable for the Appellants in 2021.

The Appellants would not have been eligible for ConnectorCare because their income of \$96,645 was greater than 300% of the federal poverty level of \$51,720 for a household of one. Since affordable insurance was available to the Appellants in 2021, it must be determined whether the Appellants experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant verified a monthly mortgage payment of \$1,787, student loan interest of \$4,360 (monthly average \$363), legal fees totaling \$4,000, and court costs of \$155.25. The Appellant claimed another \$800 per month for

transportation. The regulations regarding financial hardship were explained to the Appellant and the record was left open until June 23, 2023 to allow the Appellant to submit verification of their Tufts health insurance bill/payment and well as verification of the household's monthly living expenses including utilities, transportation, and food. The Appellant did not submit any additional evidence during the record open period.

Given the household's income of \$96,645 and the fact that private health insurance was available with a monthly premium of \$526 for a couple (see Table 4 Schedule HC- 2021) the Appellants have failed to demonstrate that purchasing health insurance would have caused the Appellants to experience a serious financial hardship. The six-month penalty for the Appellant and their Spouse is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

Appellant: Number of Months Appealed: 6	Number of Months Assessed: 6
Spouse: Number of Months Appealed: 6	Number of Months Assessed: 6

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2575

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

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: June 6, 2023

Decision Date: December 15, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on June 6, 2023. 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: Appeal Case Information from Schedule HC 2021.
- Exhibit 2: Statement of Grounds for Appeal signed by the Appellant on June 20, 2022, with attachments.
- Exhibit 3: Health Connector Appeals Unit Notice of Hearing dated May 17, 2023.
- Exhibit 4: Health Connector Appeals Unit Open Record Form dated June 6, 2023.
- Exhibit 5: Additional information submitted by the Appellant via Email on July 6, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in October 2021, filed their Federal Income Tax return as a single person with no dependents (Exhibit 1).
2. The Appellant lived in Worcester County, MA in 2021 (Exhibit 1).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$72,108 (Exhibit 1).
4. According to the Schedule HC for 2021, the Appellant did not have health insurance for any months of tax year 2021 (Exhibit 1).
5. The Appellant has been assessed a twelve-month tax penalty for 2021. The Appellant filed an appeal of the assessment in June, 2022 (Exhibits 1, 2).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents, with an annual adjusted gross income of \$72,108 could afford to pay \$481 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Worcester County, could have purchased private insurance for \$263 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant.
8. The Appellant was not financially eligible for ConnectorCare because their income of \$72,108 was greater than 300% of the federal poverty level which was \$38,280 for a household of one (Table 2 of Schedule HC-2021).
9. The Appellant testified that they had health insurance through their employer for the months of January and February. The Appellant said that they lost their job and found another one in March but there was a waiting period to enroll in employer sponsored health insurance. The Appellant said that they were let go on July 31, 2021. When asked why they did not have insurance for some months prior to July 31, the Appellant said that they assumed they were automatically enrolled. The Appellant said that they earned approximately \$51,000 from January through July and the other \$22,000 was unemployment compensation income received from August through December (Appellant Testimony).
10. The Appellant was advised that the record would be left open to allow the Appellant to submit proof of their health insurance for the months of January and February 2021. The regulations regarding financial hardship were explained and the Appellant was informed that they could submit documentation of their day to day living expenses including rent/mortgage, utilities, car, food, and any other expenses. The Appellant said that they did not feel like digging through old payments and would not submit proof of living expenses (Appellant Testimony).
11. The record was left open until July 5, 2023 to allow the Appellant to submit additional information (Exhibit 4).
12. On July 6, 2023 the appellant submitted a copy of Form 1095 B 2021 verifying they were enrolled in a Tufts health insurance plan for the months of January and February 2021 (Exhibit 5).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

According to the Appellant’s Schedule HC for 2021, the Appellant did not have health insurance for any months of tax year 2021 and consequently has consequently been assessed a twelve-month penalty. The Appellant submitted a statement of grounds for this appeal in June 2022. The Appellant did not allege financial hardship as the basis of their appeal.

During the record open period following the hearing, the Appellant submitted a copy of Form 1095-B 2021 verifying that the Appellant was enrolled in a Tufts health insurance plan through their employer for the months of January and February 2021. Given the three-month grace period, the Appellant should not be subject to a tax penalty for the five-month period of January through May. The Appellant remains subject to a penalty for the period of June through December.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an adjusted gross income of \$72,108 could afford to pay \$481 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Worcester County, could have purchased private insurance for \$263 per month (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.

The Appellant would not have been eligible for ConnectorCare because their income of \$72,108 was greater than 300% of the federal poverty level of \$38,280 for a household of one. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant testified that they lost their employer sponsored health insurance at the end of February when their job ended. The Appellant did secure another job in March and testified that there was a waiting period to enroll in the company’s health insurance plan. The Appellant left that job and the end of July 2021 having never enrolled in the company’s health insurance plan. The regulations regarding financial hardship were explained to the Appellant and the Appellant testified that they did not feel like digging through old payments and would not submit documentation of their monthly living expenses for the period of June through December 2021.

The Appellant testified to average monthly income of \$7,428 for the period of January through July and \$4,400 for the period of August through December. The Appellant did not offer evidence or testimony of their monthly living expenses and has failed to demonstrate that purchasing private health insurance with a monthly premium of \$263 (see Table 4 Schedule HC- 2021) would have caused the Appellant to experience a serious financial hardship. The Appellant is subject to a seven-month tax penalty for the period of June through December in tax year 2021 See 956 CMR 6.08.

PENALTY ASSESSED

Number of Months Appealed: 12 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 2021 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 21-2680

Appeal Decision: The tax penalty is partially overturned.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 16, 2023

Decision Date: October 26, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants are married persons filing jointly. The Appellants appeared at the hearing, which was held by telephone, on October 16, 2023. The procedures to be followed during the hearing were reviewed with the Appellants, who were sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellants. The hearing record consists of Appellants' testimony and the following documents that were admitted into evidence:

Exhibit 1: Appeal Case Information from Schedule HC 2021 (1 page).

Exhibit 2: Statement of Grounds for Appeal and supplemental documentation provided by the Appellants (22 pages).

Exhibit 3: Health Connector Appeals Unit Notice of Hearing on October 16, 2023 (2 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellants filed their federal income tax return as married persons filing jointly. (Exhibit 1).
2. Appellant #1 turned 30 in June 2021, and Appellant #2 turned 44 in November 2021. (Exhibit 1).
3. The Appellants lived in Barnstable County in 2021. (Exhibit 1).
4. According to the Appellants' Schedule HC, the Appellants' federal Adjusted Gross Income ("AGI") for 2021 was \$98,703. (Exhibit 1).

5. According to the Appellants' Schedule HC, the Appellants did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2021. The Appellants were both assessed 12-month tax penalties. (Exhibit 1).
6. The Appellants checked the following box on their Statement of Grounds for Appeal: "During 2021, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: domestic violence; the death of a spouse, family member or partner with primary responsibility for child care where household expenses were shared; the sudden responsibility for providing full care for an aging parent or other family member, including a major extended illness of a child that required you to hire a full-time caretaker for the child." (Exhibit 2).
7. The Appellants submitted a letter with their Statement of Grounds for Appeal in which they stated that Appellant #2 was out of work for four to five months in 2021 because of a broken ankle and that Appellant #1 was out of work for a couple of weeks because she had COVID. (Exhibit 2).
8. In addition, the Appellants submitted the following documents: a note from a chiropractor stating that they examined and treated Appellant #2 on ten occasions in 2021 for a fracture suffered in April 2021; a letter from Appellant #1's employer stating that they were out of work because of COVID for two weeks in July 2021; a copy of the Appellants' mortgage bill dated September 8, 2022 showing an amount due of \$2,538; a September 30, 2022 bill showing a monthly car payment of \$368.74 for a Toyota Tacoma; a September 14, 2022 bill showing a monthly car payment of \$335.80 for a Nissan Rogue; a September 9, 2022 Eversource bill for \$272.26; an October 20, 2022 bill for \$137.43 from National Grid, including a past due amount of \$48.02; and a municipal water bill for \$362.23, with a November 1, 2022 due date.
9. A hearing on the Appellants' appeal took place telephonically on October 16, 2023. (Exhibit 3). The Appellants appeared at the hearing.
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2021 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2021.
11. The Appellants' AGI of \$98,703 was greater than 300% of the Federal Poverty Level, which was \$51,720 for a family of two in 2021. (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
12. According to Table 3 of Schedule HC for 2021, the Appellants, who filed their federal tax return as a married couple filing jointly and claimed an adjusted gross income of \$98,703, could have afforded to pay \$658 per month for health insurance. The calculation is as follows: Table 3 states

that a married couple filing jointly whose 2021 AGI was \$68,961 or more could have spent 8% of their earnings on health insurance; 8% of \$98,703 is \$7,896, and one-twelfth of \$7,896 is \$658.

13. According to Table 4 of Schedule HC for 2021, the least expensive health insurance plan meeting Massachusetts' minimum creditable coverage requirements that a married couple whose oldest member was 43 and living in Barnstable County in January 2021 could have purchased cost \$587 per month.
14. The Appellants testified that they did not have access to health insurance through employment. Appellant #2 testified that they are self-employed, and Appellant #1 testified that they work at a restaurant that does not offer health insurance.
15. Appellant #1 testified that they were out of work for a couple of weeks in July 2021 because they had COVID. Appellant #1 testified that this absence from work was detrimental to their financial situation because the summer is the high season for their restaurant and the time at which they earn the most money.
16. Appellant #2 testified that they were out of work for at least five months in 2021 because they broke their ankle in April 2021. Appellant #2 testified that they work as a handyman.
17. The Appellants testified that they estimated they had the following monthly expenses in 2021: \$2800 per month for a mortgage, including extra insurance payments because the Appellants did not make a large down payment on their new home; \$300 for electricity; \$150 for gas; \$50-80 for water; \$85 for wifi; one car payment of \$350 and another car payment of \$380; \$133 for car insurance; \$260 for gas for their cars; \$180 for cellphones; \$1200 for food; \$200 for clothing; and \$100 for household supplies. These expenses total \$6,218, using the high amount of \$80 for water.
18. Appellant #1 testified that the main reason the Appellants did not have health insurance in 2021 was that Appellant #2 was out of work for five months and did not make much money when they returned to work. Appellant #1 testified that an additional reason the Appellants did not have health insurance was that Appellant #1 was out of work for two weeks during the summer. Appellant #1 further testified that in 2021, the Appellants had recently purchased a new home, which was a fixer-upper, and that they had home-related expenses. Appellant #1 also testified that in 2021, they had a high mortgage payment because they needed to purchase additional insurance due to their not having made a large down payment on their home.
19. Appellant #1 testified that they currently have health insurance but that Appellant #2 does not. Appellant #1 further testified that they have already paid a tax penalty for 2022.

ANALYSIS AND CONCLUSIONS OF LAW

The case is before me on the Appellants' appeal from the DOR's assessment of a twelve-month tax penalty for both Appellants because the Appellants' tax forms indicated that Appellants did not have health insurance that met Massachusetts' minimum creditable coverage ("MCC") standards for any month in 2021. The issue to be decided is whether the tax penalty should be waived in whole or in part.

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

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

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

First, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through a government-subsidized program because their AGI exceeded 300% of the Federal Poverty Level. Finding of Fact No. 11.

Second, I conclude that affordable health insurance meeting MCC standards was not available to the Appellants through employment because Appellant #1 credibly testified that their employer, a restaurant, did not offer insurance, and Appellant #2 credibly testified that they were self-employed in 2021. Finding of Fact No. 14.

Third, I conclude that affordable health insurance meeting MCC standards was available to the Appellants through the private market. According to Table 3 of the Schedule HC, the Appellants could have afforded to spend \$658 per month on health insurance. Finding of Fact No. 12. According to Table 4 of the Schedule HC, the least expensive health insurance meeting MCC standards available to the Appellants on the private market cost \$587 per month. Finding of Fact No. 13.

I find, however, that the Appellants suffered a hardship in April 2021, such that insurance on the private market was not in fact affordable to them from April 2021 through December 2021. The Appellants testified that Appellant #2 was out of work for five months in 2021. Findings of Fact Nos. 16 and 18. I find the Appellants' testimony to be credible because they submitted documentation from a chiropractor stating that they treated Appellant #2 for a fracture on ten occasions in 2021. Finding of Fact No. 8. I find that because Appellant #2 was out of work and did not earn income for five months, the purchase of health insurance by the Appellants during the months of April through December 2021 would likely have caused the Appellants to experience a serious deprivation of food, shelter, clothing, or other necessities. However, I do not find that the Appellants suffered a hardship in the months of January through March 2021 such that they could not have afforded to purchase health insurance meeting MCC requirements on the private market.

Reviewing the totality of the evidence, I conclude that Appellants' tax penalties for the months of April through December should be waived because the Appellants suffered a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

The Appellants should note that the partial waiver of their penalty is based upon the facts that I have determined to be true in 2021. The Appellants 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 #1

Number of Months Appealed: 12

Number of Months Assessed: 3

Appellant #2

Number of Months Appealed: 12

Number of Months Assessed: 3

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA21-2717

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: November 20, 2023

Decision Date: November 28, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2023. 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 20, 2023.
- Exhibit 2: Appeal Case Information from Schedule HC 2021.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on May 8, 2023.
- Exhibit 4: The Appellant's letter in support of this appeal dated May 8, 2023.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 46 in May 2021, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2021 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$56,532 (Exhibit 2).
4. The Appellant had insurance for the period of January through March but was uninsured for the period of April through December in tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a six-month tax penalty for 2021. The Appellant filed an appeal of the assessment in May, 2023 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$56,532 could afford to pay \$377 per month for health insurance. In accordance with Table 4, the Appellant, age 46, living in Bristol County, could have purchased private insurance for \$336 per month for a plan (Schedule HC for 2021). Private insurance was affordable for the Appellant in 2021.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2021 because the Appellant's income was more than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. The Appellant testified that the \$56,532 adjusted gross income figure does not adequately reflect their financial circumstances for the entire year. The Appellant said that they were unemployed for the period of January through March, but their health insurance coverage was maintained through the Carpenter's Union for the first three months of 2021. The Appellant said that they returned to work at the end of March but suffered a workplace injury on March 31, 2021 and was again out of work for the months of April and May. The Appellant said that because they did not work a minimum of 600 hours in a six-month time period, their health insurance was cancelled. The insurance was reinstated once they met the 600-hour requirement. The Appellant said that they were not aware of this for a few months and when they became aware they could not afford to purchase health insurance due to their limited income (Exhibit 4 and Appellant Testimony).
10. The Appellant's 2021 monthly living expenses of \$2,813 included: mortgage, taxes, and insurance- \$1,150; water bill- \$60; electricity-\$60; heat-\$60; telephone-\$175; car insurance- \$410; gasoline-\$120; and food \$758. The Appellant testified credibly that meeting their living expenses was difficult due to their periods of unemployment in tax year 2021 (Exhibit 4 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant had health insurance for the period of January through March but was uninsured for the period of April through December in tax year 2021. Consequently, the Appellant has been assessed a six-month penalty. The Appellant filed an appeal in May 2023 citing financial hardship as the reason for their failure to have health insurance.

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$56,532 could afford to pay \$377 per month for health insurance. According to Table 4, the Appellant, age 46, living in Bristol County, could have purchased a private insurance plan for \$336 month. See Schedule HC for 2021. Private insurance appeared affordable for the Appellant in tax year 2021.

The Appellant had health insurance for the period of January through March through the Carpenter’s Union. The Appellant was unemployed during these months but began working again toward the end of March. Unfortunately, the Appellant suffered a workplace accident on March 31, 2021 and was again out of work for the months of April and May. The Appellant lost their health insurance because they were unable to work the minimum 600 hours in a six-month period to maintain eligibility through their union. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level which was \$38,280 for their household. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2021, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant testified credibly that their adjusted gross income figure of \$56,532 does not adequately reflect their income for the whole of tax year 2021. Due to unemployment for the first three months of the year, and inability to work due to injury for months of April and May, the Appellant’s income fluctuated. Given the Appellant’s monthly living expenses of \$2,813 and the fact that the Appellant would have had to pay a minimum of \$336 for a private plan (See Table 4 Schedule HC 2021), the Appellant has demonstrated that the cost of purchasing health insurance would have caused the Appellant to experience a significant financial hardship during the period of April through December in tax year 2021. The Appellant’s six-month penalty is waived. See 956 CMR 6.08(3).

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Appeal Decision: Appeal Granted; the tax penalty is waived.

Hearing Issue: Appeal of the 2021 Tax Year Penalty

Hearing Date: October 3, 2023

Decision Date: October 25, 2023

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on October 3, 2023. 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 September 8, 2023.

Exhibit 2: Appeal Case Information from Schedule HC 2022.

Exhibit 3: Statement of Grounds for Appeal, with attachments, dated March 9, 2022.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, aged 38 in January 2021, filed his Federal Income Tax Return as Single with no dependents (Exhibit 2).
2. The Appellant lived in Norfolk County in 2021 (Exhibit 2, 3 and Appellant Testimony).
3. The Appellant's Federal Adjusted Gross Income for 2021 was \$39,641 (Exhibit 2).
4. The Appellant did not have health insurance for eight-months of tax year 2021 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2021 (Exhibit 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2021 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2021. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2021.
7. In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal Tax Return as Single with no dependents, with an annual adjusted gross income of \$39,641 could afford to pay \$246 per month for health insurance. In accordance with Table 4, the Appellant, age 38, living in Norfolk County, could have purchased private insurance for \$275 per month. Private insurance was not affordable for the Appellant.
8. Appellant testified that he was employed full time and had health insurance through his employer until April of 2021. He said his child support payments began to be garnished from his pay at this time and he could not afford health insurance after this increase (Appellant Testimony and Exhibit 3). Appellant would not have been eligible for ConnectorCare coverage in 2021, because the Appellant's income was more than 300% of the federal poverty level, which was \$38,280 for a household of one in 2021 (See Table 2 of Schedule HC-2021 and 956 CMR 12.04).
9. The Appellant did not qualify for MassHealth in accordance with the income requirements in place in 2021 (Appellant Testimony and Exhibit 2). He said he obtained a quote through the HealthConnector and it was too expensive. He added that he was confused about these two programs since his monthly income varied and did not have a full understanding of how either worked (Appellant Testimony).
10. Appellant credibly testified that his monthly living expenses in 2021 exceeded \$2,400; including his payment of child support, which consumed most of his take home pay (Appellant Testimony and Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

In accordance with Table 3 of Schedule HC for 2021, the Appellant filing his Federal Tax Return as Single, with no dependents claimed and with an adjusted gross income of \$39,641 could afford to pay \$246 per month for health insurance. According to Table 4, the Appellant, age 38, living in Norfolk County, could have purchased a private insurance plan for \$275 a month. See Schedule HC for 2021. Private insurance was not affordable for the Appellant in tax year 2021.

The Appellant would not have been eligible for MassHealth as his income was above the requirement for this program. He would not have been eligible for ConnectorCare coverage based upon the Appellant’s income that was more than 300% of the federal poverty level which was \$38,280 for a household of one. See Table 2 of Schedule HC 2021 and 956 CMR 12.04 for eligibility criteria. Credible testimony was received from the Appellant that he was experiencing an economic hardship in 2021 including providing for his 12-year-old daughter and paying his own monthly living expenses (Appellant Testimony).

Appellant convincingly testified to his monthly living expenses exceeding \$2,400 which consumed most of his take home salary. Further, his wages were garnished for child support beginning in 2021 and he could no longer afford health insurance through his employer which cost him \$520 a month in premiums (Appellant Testimony). In light of these facts, it is determined that the purchase by Appellant of health insurance would have resulted in his sustaining a financial hardship as defined in 956 CMR 6.08. Accordingly, his penalty for Tax Year 2021 is waived in its entirety.

The Appellant should note that the granting of a waiver of their penalty is based upon the facts that I have determined to be true in 2021. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a 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 2021.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit