

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-518

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 12, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 12, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 39 at the end of 2023. Exhibit 2.
2. Appellant lived in Suffolk County in 2023. Exhibit 2.
3. Appellant filed his taxes as a head of household with one dependent. Exhibit 2. Thus, he was in a household of two persons.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$90,247. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes, and confirmed at the hearing, that he did not have health insurance from January through June of 2023, but did have such insurance from July through December. Exhibit 2.
6. In October 2022, Appellant was laid off from a job. He had received health insurance through that job, so he lost the insurance after the layoff.
7. Appellant looked for work through the first part of 2023, eventually finding new employment beginning in July.
8. He got health insurance through the new job, and so was employed starting in July for the rest of the year.
9. During his period of unemployment, Appellant received unemployment compensation of about \$988 a week.
10. The balance of the income Appellant reported on his 2023 tax return was the salary he earned starting in July when he began working again.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring 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 can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for six months out of the year. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only three months.

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

During the period of 2023 in which Appellant was uninsured, he was unemployed. Thus, he did not have access to employment-based insurance at that time.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of two persons like Appellant's was \$54,930. (I obtain the figure of \$54,930 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$90,247 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellant who was in a household of two persons and had annual income of \$90,247 were deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$7,219 annually or \$601 a month. During 2023, persons like Appellant who lived in Suffolk County and were 39 years of age could have obtained insurance for a premium of \$335 a month. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2023 but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has.

In this case, strict application of the affordability standards would be inequitable. Although Appellant's annual income was \$90,247, well more than half of that income was earned in the months when Appellant was working, which was also the time when he was insured. During the time that Appellant was uninsured, his income consisted of unemployment compensation of approximately \$988 a week or \$3,952 a month. That amount annualizes to \$51,376. Under the affordability standards, a person in a household of two persons with that income could have afforded 7.6 percent for insurance, which in this case would amount to \$3904 annually or \$325 a month. As stated above, Appellant would have had to pay \$335 for health insurance. See Tables 3 and 4 to the instructions for the 2023 Schedule HC. Thus, during the period that Appellant was uninsured, health insurance was unaffordable for him.

In light of those circumstances, I conclude that the cost of purchasing health insurance during the period of time when Appellant was uninsured would have caused him to experience a serious deprivation of the necessities of life. This constitutes grounds to waive the individual mandate penalty under governing regulations. 956 C.M.R. § 6.08(1)(e). Thus, I will allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-520

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 12, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants are a married couple who will be referred to herein as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on December 12, 2024. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (15 pages)

FINDINGS OF FACT

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

1. Appellants are a married couple. Husband was 35 and Wife was 39 at the end of 2023. Exhibit 2.
2. Appellants lived in Norfolk County in 2023. Exhibit 2.
3. Appellants filed their taxes as married filing jointly with no dependents. Exhibit 2.
4. Appellants' household income in 2023, as reported on their 2023 state income tax returns and confirmed at the hearing, equaled \$101,358. Exhibit 2.

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

5. Appellants reported in the Schedule HC that they filed with their 2023 state income taxes, and confirmed at the hearing, that neither of them had health insurance at any point in 2023. Exhibit 2.
6. At the end of 2022, both Husband and Wife were each laid off from their jobs. They had been insured through Husband's job and so they lost their insurance when they were laid off.
7. Both Appellants applied for unemployment compensation. They received unemployment compensation for the first six months of the year. Husband's unemployment compensation amounted to \$26,390 and Wife's amounted to \$24,360. Exhibit 3 at 8-10.
8. Eventually Wife got a full-time job in October, and worked at that job throughout the rest of 2023 and into 2024. However, she did not receive health insurance through that work.
9. Husband started working at two part-time jobs toward the end of 2023. He did not receive health insurance at either of those jobs.
10. Appellants had a monthly mortgage payment of \$3,452 and a homeowners' association assessment of \$343.
11. After Wife started working full-time, Appellants decided they could afford health insurance. They applied through the Health Connector at the end of 2023 and were insured as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

During 2023, Appellants were either unemployed or working at jobs that did not offer health insurance. Thus, they did not have access to employment-based insurance at that time.

Further, Appellants would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04

(Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of two persons like Appellants' was \$54,930. (I obtain the figure of \$54,930 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellants' household income during 2023 was \$101,358 and therefore they were not income-eligible for Connector Care.

However, Appellants could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellants who were in a household of five persons and had annual income of \$101,358 were deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$8,108 annually or \$675 a month. During 2023, persons like Appellants who lived in Norfolk County and were in a family in which the oldest person was 39 years of age could have obtained insurance to cover a married couple for a premium of \$669 a month. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellants could have obtained affordable insurance in 2023 but didn't, I must determine whether they have stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that they have.

Both Appellants lost their jobs at the same time. This would have created significant financial uncertainty, which would have discouraged them from undertaking the large additional expense of health insurance. They did not have steady income other than unemployment compensation until Wife got a full-time job starting in October. But by that point, it would have been too late to purchase insurance in the non-group market for 2023, because open enrollment would have ended. When Appellants were able to purchase insurance in the next open enrollment season for 2024, they did. Finally, throughout the year, they had significant housing costs, consisting of mortgage, insurance, and homeowners' association assessment, totalling \$3,795 a month or \$45,540 in a year. That cost alone would have consumed 44 percent of the income that they reported. Finally, even under the affordability standards, they were only barely able to afford insurance, since they could afford \$675 a month, but would have had to pay \$669.

In light of those circumstances, I conclude that the cost of purchasing health insurance during the period of time when Appellants were uninsured would have caused them to experience a serious deprivation of the necessities of life. This constitutes grounds to waive the individual mandate penalty under governing regulations. 956 C.M.R. § 6.08(1)(e). Thus, I will allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Husband

Number of Months Appealed: 12

Number of Months Assessed: 0

Wife

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-492

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 26, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on November 26, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 5/8/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 5/8/2024.	(1 P).
Exhibit 2(b):	Appellant’s 1099 HC submitted in Support of Appeal	(2 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 10/25/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return filed with a family size of 1, was age 50 in 2023, lived in Middlesex County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$70,643 (Exhibit 1).
3. The Appellant had Employer Sponsored Insurance (“ESI”) until he left his job in March 2023 and did not have coverage until he obtained Connectorcare in September 2024. (Testimony, Exhibit 1).

4. The Appellant was eligible for COBRA with a monthly cost of approximately \$1,500 to \$1,600 but did not elect to pay for COBRA given that he was out of work and wanted to save funds. (Testimony, Exhibit 2(a)).
5. According to Table 3 Appellant could have afforded \$470.95 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$475.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
6. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
7. The Appellant did not provide testimony regarding his net monthly income but testified hardship was not grounds for his appeal. (Testimony).
8. The Appellant was able to provide testimony and corroborating evidence regarding his health insurance coverage. (Testimony, Exhibit 2,2(a)-(b)).
9. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for three (3) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of Other: he was unable to obtain government subsidized insurance even though his income. The Appellant adduced testimony at the hearing that his decision not to elect COBRA and waiting to obtain Connectorcare was reasonable given the circumstances. (Exhibits 2(a)-(b) and Appellant Testimony).

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

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

The evidence provided by the Appellant established that his income for 2023, \$70,643 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$470.95 per month. According to Table 4, Appellant, age 50 and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$475 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance(“ESI”) in 2023. The Appellant testified that he left his employment in early March 2023 and was not eligible for ESI (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI beginning in March and during the time he was being penalized. (Appellant Testimony).

Given that he did not have access to affordable ESI, affordable private insurance, or government subsidized insurance, I find the Appellant had no access to affordable coverage and is not subject to a penalty. Notwithstanding same, I find the Appellant adduced substantial evidence as to why he did not purchase private insurance or COBRA, given the substantial costs and that he was out of work and wanted to save funds during the time he was uninsured. (Testimony, 956 CMR 6.08 (3)). Moreover, the mandate has not been lost on the Appellant as he obtained Connectorcare when he was able. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved**.

PENALTY ASSESSED

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

The Connector has notified the Department of Revenue that pursuant to its decision, you should be assessed a penalty for Tax Year 2023 for the amount equal to one half of the lowest cost health insurance

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 22-1185

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2022 Tax Year Penalty

Hearing Date: December 19, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 5/8/2023.	(2 PP).
Exhibit 2(a):	Medical Plans bundled with Indemnity Statement in Support of Appeal undated	(1 P).
Exhibit 2(b):	Reliance Standard Hospital Indemnity in Support of Appeal undated	(2 PP).
Exhibit 2(c):	Reliance Standard Critical Illness in Support of Appeal undated	(2 PP).
Exhibit 2(d):	Reliance Standard Accident Insurance in Support of Appeal undated	(2 PP).
Exhibit 2(e):	Appellant's 2022 1040 in Support of Appeal undated	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/20/2024.	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2022 Massachusetts tax return, was single had 0 dependents in 2022, lived in Middlesex County, and had a family size of 1. (Exhibit 1).
2. The Appellant testified he had been employed with the Employer since 2006 and had been enrolled in Employer Sponsored Insurance (ESI) and never had an issue prior to 2022. (Testimony of Appellant).
3. The Appellant testified his employer changed the health insurance plan provider in 2022 that made the plan non-MCC compliant. (Testimony, Exhibit 2(a)-(e)).
4. The Appellant testified that he paid approximately \$80 a week non-MCC compliant. (Exhibits 1 and 2(a)-(d), Testimony).

5. The Appellant credibly testified that he understood from his Employer that the plan was a cost savings measure that was bundled slightly different than prior plan, the employee would pay more up front, and had a hospital indemnity component that would reimburse the employees if used. (Testimony).
6. The Appellant did not realize the plan did not meet the meet minimal credible coverage (“MCC”) standards for Massachusetts residents until later in 2023. (Testimony, Exhibit 1).
7. The Appellant provided documentation regarding the plans benefits but the plan did not meet the necessary minimum creditable coverage (MCC) requirements. (Testimony, Exhibits 2(a)-(b)).
8. The Appellant credibly testified that he chose the plan because it was comprehensive, affordable and that the plan packaged hospital indemnity, accident, and critical illness coverage. (Testimony, Exhibit 2(a)).
9. The Appellant’s Federal Adjusted Gross Income for 2022 was \$33,068. (Exhibit 1).
10. The Appellant has been assessed a tax penalty for twelve (12) months in 2022. The Appellant has appealed this assessment (Exhibits 1, 2).
11. According to Table 3, the Appellant could have afforded \$137.78 per month for health insurance in 2022. According to Table 4, the Appellant could have purchased insurance for \$435 per month.
12. 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 submitted grounds with him appeal that during 2022: he had health insurance that didn’t meet minimum creditable coverage standards because that is what the employer offered, and him circumstances prevented him from buying other insurance that met the requirements. (Exhibits 2, 2(a)-(f) and 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, \$33,068 was less than 300% of the federal poverty level, which for 2022 was \$38,640 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2022, the Appellant could have afforded \$137.78 per month. According to Table 4, the Appellant, age 57, and with 0 dependents and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$435.00 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”). The Appellant credibly testified that health insurance was offered through his employer, but that same did not meet minimal credible coverage. (Testimony). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 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). In this case, the Appellant had an adjusted gross income of \$33,068 in 2022 and the ESI premium was \$320, more than 9.61% (or \$261.81 per month) of the employee’s MAGI. ESI was not affordable. However, although the ESI was not affordable, as referenced above, the coverage is not considered to meet minimum value standards.

Based upon the facts summarized above, I find that where the Appellant did not know that he had ESI that did not meet minimum creditable coverage offered by his employer, and paid for insurance that was not affordable but he was insured with a plan that was comprehensive, his circumstances prevented him from buying other insurance that met the requirements, and thus he is not subject to a penalty within the meaning of 956 CMR 6.08 (2)(d) and (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**.

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

FINAL APPEAL DECISION: PA23-399

Appeal Decision: Appeal Granted; the tax penalty is waived in its entirety

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 14, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant 1 (husband) and Appellant 2 (wife) filed their 2023 tax return as Married Filing Jointly with no Dependents. The Appellants appeared at the Hearing. The Hearing was held by telephone, on November 14, 2024. The procedures to be followed during the Hearing were reviewed with Appellants who were then sworn in. Exhibits were marked and admitted into evidence with no objections. The Hearing record consists of the Appellants' testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 18, 2024.

Exhibit 2: Appeal Case Information from Schedule HC 2023.

Exhibit 3: Statement of Grounds for Appeal dated April 26, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant 1 was age 59 and Appellant 2 was 51 in January 2023, and filed their Federal Income Taxes as Married Filing Jointly with no Dependents (Exhibit 2).
2. The Appellants lived in Essex County in 2023 (Exhibit 2 and Appellant Testimony).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$266,126 (Exhibit 2).
4. Appellants have each been assessed a 12-month tax penalty for 2023 (Exhibit 2).

5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
6. In accordance with Table 3 of Schedule HC for 2023, the Appellants filing their Federal Tax return as Married Filing Jointly with no Dependents, with an annual adjusted gross income of \$266,126 could afford to pay \$1,774.00 per month for health insurance. In accordance with Table 4, Appellant 1 (older spouse), age 59 living in Essex County, could have purchased private insurance for \$979 per month. Private insurance was affordable for Appellants.
7. Appellant 1 testified that he was employed full-time in 2023, and he participated in his employer's health insurance plan for that year. He further credibly testified that his insurance elections did not change from year to year. He referenced his Form MA 1099-HC for 2022 that he submitted as evidence for this hearing, to prove he did not change his coverage. He said his 2023 Form MA 1099-HC has "No" marked in the box for MCC Compliance for both he and his wife.
8. Appellant 1 credibly testified he went to his employer's benefit department representative, and he was told the 1099 was directly fed from the insurance company. He further stated he was told by both the insurer's customer service department and his company that he was covered by a Massachusetts compliant plan. Appellant 2 added that no notice of changes were sent which stated that the plan was non-compliant with Massachusetts law for 2023 (Appellant Testimony and Exhibit 3).
9. Appellant 1 stated that he did not attempt to find a policy via the Health Connector since he has coverage and did not need to find a policy. He added that the Health Connector site showed them both as insured for 2023 and he would not be able to purchase a plan through it (Appellant Testimony).
10. Appellant 1 further testified that the monthly premium in 2023 for health insurance through his employer was \$451.86 (Appellant Testimony and Exhibit 3).
11. The Appellants' income was more than 300% of the federal poverty level, which was \$54,930 for a household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04)(Exhibit 2).
12. Appellant 1 testified that the couple had over \$18,000 a month in living expenses including mortgage payments (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

Any health insurance policy must also satisfy the MCC requirement to avoid the tax penalty. Mass. Gen. Laws c. 111M, sec. 2(b). In addition to financial hardship, the Connector may also consider the extent to which insurance obtained deviated from or substantially met minimum creditable coverage standards when determining if a penalty should be waived. See 956 CMR 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 2023, the Appellants filed their Federal Tax Return as Married Filing Jointly with no Dependents and had an adjusted gross income of \$266,126. In accordance with Table 3 they could afford to pay \$1,774 per month for health insurance. According to Table 4, Appellant 1 age 59, living in Essex County, could have purchased private insurance for \$979 a month. See Schedule HC for 2023. Private insurance was affordable for the Appellants in tax year 2023.

The Appellants would not have been eligible for ConnectorCare coverage based upon their income that was more than 300% of the federal poverty level which was \$54,930 for a household of two in 2023. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Appellants would not have qualified for MassHealth based on the income requirements in 2023.

The Appellants could afford health insurance and did purchase a plan via Appellant 1’s employer. They had a high Adjusted Gross Income and did not demonstrate any economic hardship. However, as discussed below - the plan Appellant 1 purchased via his full-time employer was reflected as not complaint for MCC purposes in 2023 and he was unable to correct this mistake.

Appellants credibly testified they had health insurance through Appellant 1’s full-time employer for the past several years. Appellant 1 said for 2023 his 1099-HC reflected that the plan was not MCC compliant despite not making any changes from previous years or any information from the plan or his employer about the plan’s status. Both Appellant offered credible testimony and a Form MA 1099- HC from 2022

to support this. Appellant 1 credibly testified that his employer and the insurance company were not helpful when he tried to resolve this issue.

This is a case of mistake on behalf of either the insurer and/or Appellant 1's full-time employer, which Appellant 1 attempted to resolve without result. He had the same health insurance plan in 2023 as he did in 2022. The Form MA 1099-HC reflected it met MCC requirements in 2022, but not 2023. The material provided to Appellants and their testimony in the hearing reflect that the plan they had for 2023 would meet the requirements of an MCC plan in accordance with 956 CMR 5.03 offering: "A broad range of medical benefits", including coverage for X-rays and prescription drugs. It is unexplainable how this plan was deemed MCC compliant one year and not the next. Appellants were credible in their testimony and the documents they presented as Exhibits supported their position¹.

In light of the above facts, I am exercising my discretion as the Hearing Officer and Appellants' penalty for 2023 is waived in its entirety. Appellants might be able to resolve this mistake by contacting the Massachusetts Department of Revenue and filing an amendment to their 2023 tax return.

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

PENALTY ASSESSED

Appellant 1: Number of Months Appealed: 12 Number of Months Assessed: 0
Appellant 2: Number of Months Appealed: 12 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

¹ The Hearing Officer 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). Based on my review of the material provided I determined the plan Appellants had for 2023 met MCC requirements, however in the alternative - at the very least, the standard of "substantially met minimum credible coverage standards" was satisfied.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-429

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 21, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellants household consisted of the Appellant who was being penalized (“Penalized Appellant”) and Spouse (who was not being penalized and had ESI) appeared at the hearing(hereinafter “Appellants”), which was held by telephone on November 21, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellants. The Appellants both testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2023 Signed by Appellant on 4/30/2024. (2 PP).
- Exhibit 2(a): Appellant’s Statement in Support of Appeal dated 4/30/2024. (1 P).
- Exhibit 3: Health Connector’s Notice of Hearing dated 10/23/2024. (2 PP).

The record was left open until December 6, 2024, for the appellants to submit documents related to their date of marriage and other supporting financial document. The Appellants submitted the following documents on December 10, 2024.

- Exhibit 4: Marriage Certificate
- Exhibit 5: Health Insurance Card
- Exhibit 6: Car Payment
- Exhibit 7: Insurance bill
- Exhibit 8: Lease
- Exhibit 9: Health Insurance Card
- Exhibit 10: Phone Bill
- Exhibit 11: Student Loans

Exhibit 12: WIFI Bill

The record shows, and I so find:

1. The Appellants filed a 2023 Massachusetts tax return filed with a family size of 2, were ages 24 and 27 in 2023, lived in Worcester County, and had zero dependents. (Exhibit 1).
2. The Appellants' Federal Adjusted Gross Income for 2023 was \$95,353. (Exhibit 1).
3. The Appellants were married in November 2023. (Testimony, Exhibit 4).
4. The Penalized Appellant, who is being penalized for twelve (12) months, testified that he was not offered Employer Sponsored Insurance ("ESI"). (Testimony).
5. The Penalized Appellant Spouse had ESI and was not being penalized. (Exhibit 1).
6. The Appellant obtained ESI through his Spouse's ESI in 2024. (Exhibit 1, Testimony).
7. The Appellants credibly testified that the Penalized Appellant was unable to purchase health insurance because of financial constraints after relocating from Atlanta in 2022 and had to rely on friends for accommodations while he secured housing and employment. (Testimony, Exhibit 2(a)).
8. The Penalized Appellant testified he was not eligible for ESI through his Employer. (Testimony).
9. The Penalized Appellant testified he did not know about the Connector as he had been on a student visa and did not investigate obtaining insurance through the Connector. (Testimony).
10. The Penalized Appellant annual income was approximately \$35,000 with a substantial portion earned prior to the Appellants' marriage in November 2023. (Testimony).
11. According to Table 3 Appellants could have afforded \$635.69 per month for health insurance in 2023. According to Table 4 the Appellant could have purchased an individual plan insurance for \$312.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
12. The Appellants would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$54,930.00 for a family of two (2). (See Table 2 of Schedule HC 2023).
13. The Appellants testified their monthly living expenses was approximately \$3,000 which included Rent: \$1,350. (Testimony).
14. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellants have been assessed a tax penalty for twelve (12) months in 2023. Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to them because of other circumstances. The Appellants adduced testimony at the hearing not affordable to the Appellant because Appellant experienced a financial hardship (Exhibits 2(a) and Appellants' Testimony).

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

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

The evidence provided by the Appellants established that their income for 2023 was \$95,553 but that the Appellant who was being penalized portion was only \$35,000. Further, the Appellants were not married until November 2023. (Testimony). Although their 2023 married filing jointly income was more than 300% of the federal poverty level, which for 2023 was \$54,930 for a family of two (2), the penalized Appellant's income was approximately \$35,000 (Testimony). According to Table 3 of Schedule HC for 2023, the Appellants could have afforded \$635.69 per month given their joint incomes, but they were not married until November 2023. According to Table 4, the Appellant being penalized, age 24 and living in Worcester County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$312 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant being penalized testified that he was not eligible for ESI. (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not

exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI (Appellant Testimony).

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

I find the Appellants could not have afforded private insurance at \$635.69 per month during the time they were being penalized given that the penalized Appellant's income was approximately \$35,000 and that he credibly testified he was not able to afford insurance after relocating to Massachusetts and relying on friends for shelter. (Testimony, Exhibit 2(a)). Accordingly, I find that the Appellants have met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). I find the Appellants did adduce substantial evidence as to why the penalized Appellant did not obtain affordable insurance. Moreover, the non-penalized Spouse should not be penalized during the time the Appellants were not married. Finally, the mandate was not lost on the Appellants where the penalized Appellant obtained ESI from his Spouse's Employer as soon as he became eligible. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved in full**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-430

Appeal Decision: The penalty is upheld in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 21, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on November 21, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 6/15/2023.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 4/27/2024.	(1 P).
Exhibit 2(b):	Visa Account Statements regarding Expenses submitted in Support of Appeal.	(9 PP).
Exhibit 2(c):	Auto Statements regarding Expenses submitted in Support of Appeal.	(9 PP).
Exhibit 2(d):	Credit Card Statements regarding Expenses submitted in Support of Appeal.	(4 PP).
Exhibit 2(e):	Mortgage Statements regarding Expenses submitted in Support of Appeal.	(6 PP).
Exhibit 2(f):	Energy Statements regarding Expenses submitted in Support of Appeal.	(3 PP).
Exhibit 2(g):	Termite Payment regarding Expenses submitted in Support of Appeal.	(6 PP).

The record shows, and I so find:

1. The Appellant, a head of household, filed a 2023 Massachusetts tax return filed with one (1) dependent and family size of 2, was age 33 in 2023, lived in Worcester County. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$52,564. (Exhibit 1).
3. The Appellant testified she moved to Massachusetts in 2022 and was working for a temporary agency until May 2023 and was not eligible for Employer Sponsored Insurance (“ESI”). (Testimony).

4. The Appellant, who is being penalized twelve (12) months, testified that she became an employee and attempted but was unable to obtain Employer Sponsored Insurance (“ESI”) because of email issues with Supervisor and human resources regarding confusion with a company email and through no fault of her own she did not receive the communications allowing her to enroll in ESI. (Testimony, Exhibit 2(a)).
5. The Appellant did not know the amount of the employee share of the ESI notwithstanding that she was unsuccessful in obtaining ESI. (Testimony).
6. The Appellant testified that by the time the issue with her Employer was rectified it was time for open enrollment and that she did obtain ESI in 2024 (Testimony).
7. The Appellant testified she investigated Connectorcare but did not obtain a price but was unable to afford insurance because of financial constraints. (Testimony, Exhibit 2(a)).
8. The Appellant testified that due to severe emotional abuse and unexpected economic abandonment, she was forced to relocate from California to seek gainful employment and as a result there were unexpected costs related to relocating that created an unexpected hardship. (Testimony, Exhibit 2(a)).
9. The Appellant testified that the dependent and household member was her mother who resided in California.
10. The Appellant testified that she continued to have to pay expenses for a home she owned in CA with her former domestic partner and that her dependent (mother) lived at the California home (Testimony, Exhibit 2(a)).
11. According to Table 3 Appellant could have afforded \$332.91 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$326 per month. (See Tables 3 and 4 of Schedule HC 2023).
12. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was more less 300% of the poverty level, which was \$54,930.00 for a family of (2). (See Table 2 of Schedule HC 2023).
13. The Appellant’s testified her monthly living expenses in 2023 included: Mortgage for CA property \$1,900, Rent: \$900, but did not provide an estimate of the other expenses. (Appellant’s Testimony, Exhibit 2(e)).
14. The Appellant submitted copies of expenses for this current year (2024) and testified that she could not afford the cost of premiums without experiencing a deprivation of food or shelter. (Testimony, Exhibits 2(a)-(f)).
15. The Appellant testified that she had received shutoff notices for water, electric and gas but did not submit notices. (Testimony).

16. The mortgage and utility statements submitted by the Appellant for the CA property were from early 2024 but did not reflect overdue balances or arrearages. (Exhibits 2(b)-(f).
17. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to her because she incurred significant, unexpected increases in essential expenses resulting directly from the consequences of domestic emotional abuse, that circumstances prevented the Appellant from purchasing other insurance that met the requirements, and that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 2, (a)-(f) and Appellant Testimony).

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

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

The evidence provided by the Appellant established that her income for 2023, \$52,564 was less than 300% of the federal poverty level, which for 2023 was \$54,930 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellant could have been paid \$332.91 per month. According to Table 4, Appellant, age 33 in Worcester County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$326 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that she was not eligible for ESI during the time she was a contractor and when she did become eligible, she attempted but was unable to obtain ESI (Testimony, Exhibit 2(a), *Infra* Nos. 4,5,). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, I find the employee was eligible for ESI for part of the year but was unable to obtain affordable ESI during the months she was being penalized (Appellant Testimony).

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

I find the Appellant could have afforded insurance of \$332.91 per month during the times she was being penalized given her annual adjusted gross income of \$52,564. The Appellant testified she had to pay \$2,800 for two properties (a mortgage for a property in California which she did not reside where a dependent resided) and rent for the Massachusetts residence. Although the Appellant did adduce credit card and other financial statements for 2024, she was unable to corroborate her hardship with any other late notices. (Exhibits 2(b)-(f). Accordingly, I find that the Appellant has not met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). However, because the Appellant faced financial constraints which when she moved, and obtained ESI in 2024 and the mandate has not been lost on the Appellant, in order to mitigate the harshness of a full penalty and based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved in part**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 27, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 27, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

The hearing record consists of the 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 |

CONNECTOR APPEALS UNIT



- Exhibit 3 National Grid billing statement for the period of December 28, 2022, through January 27, 2023. This statement includes a termination notice indicating that the customer is at risk of service termination due to an overdue balance. 1 page
- Exhibit 4 National Grid billing statement for the period of May 30, 2023, through June 28, 2023. This statement also includes a termination notice warning of potential service termination for an overdue balance. 1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 61 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$73,801.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 543% 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 2023, the Appellant was employed as an Officer Manager at a Utility Contractor in a full-time capacity. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. The Appellant was offered health insurance in 2023, by her employer, at an approximate monthly cost of \$1,000.00. (Appellant's Testimony)
7. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

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9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$73,801.00 was deemed able to pay \$492.01 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 61 and living in Norfolk County, could have purchased private insurance for \$490.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
11. In 2023, Appellant had the following monthly expenses for basic necessities¹:

<u>Rent or Mortgage</u>	\$1,300.00	<u>Car Insurance</u>	\$100.00	<u>Medical/Dental Costs</u>	\$84.00
<u>Water</u>	\$36.00	<u>Gas (Car)</u>	\$110.00	<u>Car</u>	\$112.50
<u>Cable/Internet</u>	\$250.00	<u>Food</u>	\$880.00	<u>Clothing</u>	\$25.00
<u>Heat</u>	\$150.00	<u>Cell Phone</u>	\$100.00	<u>Sewage</u>	\$38.00
<u>Electricity</u>	\$300.00	<u>Household & Toiletries</u>	\$100.00	<u>Homeowner's Insurance</u>	\$84.00
				<u>Total:</u>	\$3,719.50

12. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$6,158.00%. Her necessary expenses were determined to be \$3,719.50 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,124.35 in her monthly financial situation when considering filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
13. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, you received a shut off notice; were shut off; or were refused delivery of essential utilities (gas, electric, heating oil, water, primary telephone) shut off or delivery refusal must be for essential services only. Please provide a copy of a shut off notice (not a late notice) or other similar correspondence from the utility company.(Testimony of

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

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Appellant, Exhibit 2).

14. The appellant alleged 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 2023 (Testimony of Appellant).
 - a. Specifically, the appellant indicated she was placed into a caregiving role for her 97-year-old mother, who lived with her during the year. However, the appellant did not need to stop working and maintained full-time employment throughout the year. (Appellant's Testimony).
 - b. The hardship waivers available under this context relate to unexpectedly increased expenses resulting directly from the consequences of: "the sudden responsibility for providing full care for an aging parent or other family member, including a major, extended illness of a child that requires a working parent to hire a full-time caretaker for the child."
 - c. During the hearing, the appellant's expenses were explored, as the original reasoning behind the appeal was revised to focus on the unaffordability of the health insurance options presented.
 - d. The appellant was provided an opportunity to discuss necessary expenses, and the only expense discussed in relation to her caregiving role was an improvement to the front steps of her home to allow her mother ease of access.
15. The appellant did not alleged that she was homeless or fell more than thirty days behind in rent payments in 2023.
16. The appellant testified and provided exhibits corroborating her claims that she did receive shut-off notices for basic utilities and provided evidence which was clear and convincing of these circumstances during her testimony (Testimony of Appellant. Exhibits 3, 4).
 - a. The appellant provided billing statements showing she was behind on her electricity payments; however, she admitted that no shut-off or termination was ever scheduled, as she was able to secure a payment plan with the electricity company. (Appellant's Testimony; Exhibits 3, 4).
 - b. The exhibits she provided consisted of late notices, not specific shut-off notices indicating imminent cancellation or suspension of her utilities. The appellant also acknowledged that this did not occur during her testimony. (Appellant's Testimony; Exhibits 3, 4).

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17. The appellant appealed the decision regarding her health insurance obligations, citing financial hardship and disagreement with the available options.
18. She testified that her employer-sponsored coverage was unaffordable, as it was quoted to cost \$1,000 per month.
19. During open enrollment, she sought coverage through the Health Connector website, where she found a plan costing \$500 per month. However, she objected to this option, arguing that the additional cost of co-pays made it unaffordable given her income and expenses.
20. The appellant also expressed frustration with the perceived unfairness of paying for health insurance, asserting that her healthy condition would not justify such expenses on medical services. These financial and fairness concerns formed the basis of her appeal. (Appellant's Testimony).
21. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L.c. 111M, § 2, also called the "individual mandate," requires every adult resident of Massachusetts to obtain insurance coverage "[s]o long as it is deemed affordable" under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was aware of the individual mandate, according to 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 2023. 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

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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 2023, by her employer, at an approximate monthly cost of \$1,000.00. (Appellant's Testimony). The Appellant was employed for the full year and did not have any job disruptions during the year 2023. (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. The Appellant was not terminated.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

During the hearing, the Appellant testified, which I found credible, that the cost of insurance offered by her employer was \$1,000.00 per month. This cost must be assessed against the state-determined affordability threshold. For the plan year 2023, considering the Appellant's income and the guidelines set forth in Table 3, the employer-sponsored plan's coverage is deemed affordable if the employee's contribution for self-only coverage does not exceed 8.00% of the employee's projected household modified adjusted gross income.

The health insurance offered by the Appellant's employer is not deemed to be affordable for the Appellant based on it being more than 8.00% of the Appellant-employee's projected household modified adjusted gross income, as per Massachusetts state-specific guidelines. The employer's offering was 16.26% of the employee's income.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost.

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See 26 CFR § 1.36B-2(c)(3). Because the Appellant's employer's health coverage exceeds 8.00% of their household income and is deemed not affordable under the ConnectorCare guidelines, the Appellant may qualify for ConnectorCare or potential Advanced Premium Tax Credits (APTC).

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program, due to her income being 543% of the Federal Poverty level.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules,

The Appellant is not eligible for ConnectorCare or APTCs as her income is more than 400% of the Federal Poverty Limit. In 2023, the Appellant's income was 543.05% of the federal poverty level.

Appellant's Engagement with the Health Connector

The Appellant testified to applying for health coverage during the open enrollment period.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$73,801.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$492.01 per month; according to Table 4, Appellant, who was 61 years old in 2023, lived in Norfolk County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$490.00 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 (\$6,158.00% per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$492.01 per month), the Appellant could have afforded private health insurance with a premium of \$490.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

There is no evidence in the record to show that Appellant was eligible for health

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insurance through any other government-sponsored program.

Misunderstanding of Health Insurance Principles and Risk Assessment

The Appellant's contention that health insurance is unnecessary due to her current good health reflects a fundamental misunderstanding of both healthcare risks and insurance principles.

The purpose of health insurance is not solely to cover predictable, routine medical expenses, but rather to protect against unforeseen and potentially catastrophic health events that can occur regardless of one's current health status. The Appellant's assertion that she can predict her future medical expenses based on her present health condition is not logically sound.

Medical conditions can arise suddenly and without warning, often requiring immediate and costly intervention. The financial burden of such unexpected medical events can be substantial, frequently exceeding what an individual could reasonably save or pay out of pocket.

Health insurance functions as a risk-pooling mechanism where participants collectively share the financial burden of healthcare costs, protecting all members against unpredictable medical expenses. The Appellant's focus on comparing monthly premiums and copays to her anticipated healthcare needs overlooks this fundamental principle of insurance and the unpredictable nature of health conditions and does not provide a valid basis to waive her tax penalty.

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2023, 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 2023 they incurred basic monthly expenses of approximately \$3,719.50. With a monthly surplus of \$1,124.35 between income and expenses, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

While the Appellant's circumstances do not precisely align with the enumerated hardship criteria, the Connector has authority to consider other grounds demonstrating inability to afford health insurance meeting minimum creditable coverage standards. See 956 CMR 6.08(3).

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The totality of the Appellant's circumstances in 2023 warrants careful consideration. Several factors contributed to her financial hardship:

First, the Appellant assumed significant caregiving responsibilities for her 97-year-old mother, who lived with her during 2023. While she maintained full-time employment, this arrangement necessitated home modifications, specifically to the front steps, to accommodate her mother's needs. Although these circumstances alone might not meet the precise criteria for caregiving hardship, they represent additional financial obligations during the relevant period.

Second, the Appellant experienced documented utility payment difficulties, demonstrated through billing statements showing arrears with her electricity provider. While service termination was avoided through a payment plan arrangement, these payment struggles evidence genuine financial strain during the period in question.

Third, the Appellant faced substantial health insurance costs. Her employer-sponsored coverage option was prohibitively expensive at \$1,000 per month, and even the Health Connector alternative at \$500 monthly would have represented a significant portion of her income. These premiums, combined with required co-pays, posed a substantial financial burden given her other obligations.

Furthermore, the Appellant's testimony regarding her subsequent job loss in January 2024, while outside the penalty period, provides relevant context about the precariousness of her financial situation leading up to that event.

When viewed collectively, these circumstances demonstrate that the Appellant could not reasonably afford health insurance that met minimum creditable coverage standards during the appeal period. While no single factor might be determinative, the combination of caregiving responsibilities, documented utility payment difficulties, high insurance costs, and the overall financial instability evidenced by these circumstances justifies exercising the Connector's discretionary authority to waive the penalty. Therefore, the 12-month penalty is waived.

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

PENALTY ASSESSED

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

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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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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.

FINAL APPEAL DECISION

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 27, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 27, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

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FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Norfolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$34,068.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 251% of the Federal Poverty level and based on her income, if all other conditions were met, she would be ELIGIBLE for Plan Type 3B (250.1-300% FPL) for ConnectorCare.
4. In 2023, the Appellant was employed full-time as a Certified Nursing Assistant (CNA) at a Senior Living Company, with their employment spanning from November 2022 to October 2023. (Appellant's Testimony).
5. Appellant was not offered health insurance by her employer.
6. The Appellant does currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$34,068.00 was deemed able to pay \$137.69 per month for health insurance, or 4.85% of her income. According to Table 4, Appellant, age 33 and living in Norfolk County, could have purchased private insurance for \$326.00 per month.
9. Private insurance was UNAFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
10. In 2023, Appellant had the following monthly expenses for basic necessities¹:

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

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<u>Rent or Mortgage</u>	\$1,200.00	<u>Cell Phone</u>	\$50.00	<u>Medical/Dental</u>	\$0.00
<u>Clothing</u>	\$25.00	<u>Gas (Car)</u>	\$50.00	<u>Heat</u>	\$55.00
<u>Cable/Internet</u>	\$120.00	<u>Food</u>	\$440.00	<u>Electricity</u>	\$100.00
				<u>Total:</u>	\$2,040.00

11. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$2,839.00. Her necessary expenses were determined to be \$2,040.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$332.95 in her monthly financial situation when considering Filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, 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).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
15. The appellant stated that the cost of health insurance was prohibitively expensive for her. After researching options on the private market, she determined that she could not afford coverage. (Appellant's Testimony).
16. The Appellant has been assessed a penalty for not having health insurance in 2023 for 3 months. The penalty period in question occurred between January and June of 2023. (Exhibit 1).

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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 2023 should be waived in whole, in part, or not at all.

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

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

Appellant had health insurance for 6 month(s) in 2023. 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. In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance (“ESI”), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 4.85%.

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

CONNECTOR APPEALS UNIT



find Employer-Sponsored Insurance was unavailable. Because the appellant was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

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

In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. In tax year 2023, the Appellant would qualify for Plan Type 3B through the ConnectorCare program. The coverage year 2023's lowest monthly premium for Plan Type 3B is \$138. To qualify for a ConnectorCare plan, the Appellant must also meet other state requirements.

Appellant's Engagement with the Health Connector

The Appellant testified to not applying through the Health Connector in tax year 2023. Despite the requirement set by the individual mandate, due diligence in seeking health coverage through the Health Connector was not conducted. Notably, with an income level of 250.68% of the Federal Poverty Level, the appellant was eligible for subsidized coverage under ConnectorCare. This oversight in not applying for available subsidized coverage suggests a missed opportunity to obtain affordable health insurance.

Availability of Private Insurance

Private insurance was UNAFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$34,068.00, was deemed to be unable to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$137.69 per month; according to Table 4, Appellant, who was 33 years old in 2023, lived in Norfolk County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$326.00 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 (\$2,839.00 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$137.69 per month), private health insurance with a premium of \$326.00 per month was unaffordable for the Appellant. (2023 Schedule

CONNECTOR APPEALS UNIT



HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

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

Appellant has demonstrated a financial hardship. The appellant testified that in 2023 they incurred basic monthly expenses of approximately \$2,040.00. Although there is a monthly surplus of \$332.95, it remains small, making it challenging to manage additional expenditures such as 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 3 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 2023 appeal. She should not assume that a similar determination will be made in the future should she again be assessed a penalty for failure to have health insurance which meets the Commonwealth's minimum creditable coverage standards.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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



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.

FINAL APPEAL DECISION: PA 23-490

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 26, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on November 26, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 4/29/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated 4/29/2024.	(1 P).
Exhibit 2(b):	Statement from Lender dated 7/25/2023 regarding Delinquency.	(5 PP).
Exhibit 2(c):	Mortgage Statement from Lender dated 8/16/2023 with past balance notice.	(4 PP).
Exhibit 2(d):	Eversource Shutoff Notice dated 10/3/2023.	(2 PP).
Exhibit 2(e):	Settlement Statement for Sale of the Property dated 11/28/2023	(3 PP).
Exhibit 3:	Health Connector’s Notice of Hearing dated 10/25/2024.	(2 PP).

The record was left open until December 19, 2024, for the Appellant to provide any documentation and evidence in Support of the Appeal, including documents regarding whether the proceeds from the sale of the property was countable in the Appellant’s 2023 Adjusted Gross Income and any other documents regarding hardship or expenses in support of the Appellant’s appeal.

On December 24, 2024, the Appellant submitted the following:

Exhibit 4:	Appellant’s 2023 Individual Federal Tax Returns with Schedules	(50 PP).
Exhibit 5:	Appellant’s Statement in Support of Appeal with Documents dated 12/18/23	(1 P).

Exhibit 6:	Appellant's 2023 Individual MA State Tax Documents with Schedules	(18 PP).
Exhibit 7:	Appellant's 2023 Individual Federal Tax Instructions	(1 P).
Exhibit 8:	Appellant's 2023 Individual State MA Tax Instructions	(1 P).
Exhibit 9:	Appellant's Summary of Expenses	(1 P).

The record shows, and I so find:

1. The Appellant, filed a 2023 Massachusetts tax return filed with zero (0) dependents and family size of 1, was age 47 in 2023, lived in Middlesex County. (Exhibit 1).
2. The Appellants' Federal Adjusted Gross Income for 2023 was \$109,079. (Exhibit 1).
3. The Appellant testified she was self-employed and not eligible for Employer Sponsored Insurance ("ESI"). (Testimony).
4. The Appellant, who is being penalized twelve (12) months, testified that her earned income was approximately \$10,353 and after business expenses her net income from work was \$923 as stated in her income tax return. (Testimony, Exhibits 2(a), 5, and 6, and 9).
5. The Appellant indicated the only reason her income was higher was because she sold her home in November 2023 and moved to Florida where she currently resided. (Testimony, Exhibits 2(a),5, and 6.
6. The Appellant testified she was behind in her mortgage payments and had received a utility shutoff notice. (Testimony, Exhibit 2(a)-€).
7. The Appellant testified she investigated Connectorcare but did not obtain a price, and notwithstanding same, she would have been unable to afford insurance because of financial constraints. (Testimony, Exhibit 2(a)).
8. According to Table 3 Appellant could have afforded \$727.19 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$409 per month. (See Tables 3 and 4 of Schedule HC 2023).
9. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family of (2). (See Table 2 of Schedule HC 2023).
10. The Appellant's testified that her monthly living expenses in 2023 included: Mortgage on the property \$1,900 and Utilities and provide a summary spreadsheet of the monthly expenses at approximately 1,534.08, or 18,409.23/12. (Testimony, Exhibits 2(a), 5, and 9).
11. The Appellant submitted copes of expenses for 2023 and testified that she could not afford the cost of premiums without experiencing a deprivation of food or shelter. (Testimony, Exhibits 2(a)-(e),5 and 9.

12. The Appellant testified that she had received shutoff notices for utilities and corroborated same with a document from the utility company. (Testimony, Exhibit 2(a)-(f)).
13. The mortgage statements submitted by the Appellant from 2023 reflected approximately 3 months overdue balances or arrearages. (Exhibits 2(b)-(f)).
14. In addition to the foregoing, I take administrative notice of the 2023 HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to her because she was more than 30 days in arrears, that she received a utility shutoff notice, and that the cost of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities. (Exhibit 2, (a)-(e) and Testimony).

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

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

The evidence provided by the Appellant established that her income for 2023, \$109,079 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have been paid \$727.19 per month. According to Table 4, the Appellant, age 47 and living in Worcester County during the time she was being penalized for not having insurance, could have purchased an individual insurance plan for \$409 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that she was not eligible for ESI during the time she was self-employed (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, I find the employee was not eligible for affordable ESI during the months she was being penalized (Appellant Testimony).

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

I find the Appellant could not have afforded insurance of \$727.19 per month during the months she was being penalized given her annual adjusted gross income of \$109,079 was comprised mostly of capital gain income from the sale of her property in November, 2023. (Exhibit 2(a)). The Appellant testified that her net business income was actually less than zero and was selling the property because she was not able to afford same. Moreover, the Appellant adduced credit card and other financial statements for 2024 corroborating her hardship along with late mortgage and utility shutoff notices. (Exhibits 2(b)-(f)). Accordingly, I find that the Appellant has met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-497

Appeal Decision: The penalty is overturned in part.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 19, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on December 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 5/6/2024.	(1 P).
Exhibit 2(a):	Appellant's Statement in Support of Appeal undated 5/6/2024	(1 P).
Exhibit 2(b):	Open Enrollment Period Benefit Confirmation undated	(3 PP).
Exhibit 2(c):	1095C	(2 PP).
Exhibit 2(d):	1095C	(1 P).
Exhibit 2(e):	1095B with Instructions	(2 PP).
Exhibit 2(f):	Appellant's 2023 1040 in Support of Appeal undated	(2 PP).
Exhibit 3:	Health Connector's Notice of Hearing dated 11/20/2024.	(2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return, was single had 0 dependents in 2023, lived in Middlesex County, and had a family size of 1. (Exhibit 1).
2. The Appellant testified he had been employed with the Employer since 2006 and had been enrolled in Employer Sponsored Insurance (ESI) and never had an issue prior to 2022. (Testimony of Appellant).
3. The Appellant testified his employer changed the health insurance plan provider in 2022 that made the plan non-MCC compliant. (Testimony, Exhibit 2(a)-(e)).
4. The 2023 1095C submitted by the Appellant references the employee's contribution was 217.63 a month. (Exhibits 1 and (2(b), (c), Testimony).

5. The Appellant credibly testified that he chose the plan because it was comprehensive and affordable and that the plan packaged hospital indemnity, accident, and critical illness coverage. (Testimony, Exhibit 2(a)).
6. The Appellant understood from his Employer that the plan was a cost savings measure that was bundled slightly different than prior plan, the employee would pay more up front, and had a hospital indemnity component that would reimburse the employees if he needed coverage, but that his personal coverage was in line with the state's MCC Standards. (Testimony, Exhibit 2(a)).
7. The Appellant did not realize the plan did not meet the meet minimal credible coverage ("MCC") standards for Massachusetts residents until later in 2023. (Testimony, Exhibit 1).
8. The Appellant provided documentation regarding the plans benefits but the plan did not meet the necessary minimum creditable coverage (MCC) requirements. (Testimony, Exhibits 2(a)-(d)).
9. The Appellant's Federal Adjusted Gross Income for 2023 was \$29,948. (Exhibit 1).
10. The Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed this assessment (Exhibits 1, 2).
11. According to Table 3, the Appellant could have afforded \$102.32 per month for health insurance in 2023. According to Table 4, the Appellant could have purchased insurance for \$490 per month.
12. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted grounds with him appeal that during 2023: he had health insurance that didn't meet minimum creditable coverage standards because that is what the employer offered, and him circumstances prevented him from buying other insurance that met the requirements. (Exhibit 2). (Exhibits 2, 2(a)-(f) 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 2023, \$29,948 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for an individual with a family size of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$102.32 per month. According to Table 4, the Appellant, age 58, and with 0 dependents and living in Middlesex County during the time he was being penalized for not having insurance, could have purchased insurance for \$490.00 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”). The Appellant credibly testified that health insurance was offered through his employer, but that same did not meet minimal credible coverage. (Appellant’s Testimony, Exhibits 1,2,2(a)-(c)). See 956 CMR 12.05 and 45 CFR section 155.305 (f)(1)(ii)(B). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1). An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). In this case, the Appellant had an adjusted gross income of \$29,948 in 2023 and the ESI premium was \$, more than 9.12% (or \$227.60) of the employee’s MAGI. ESI was not affordable. However, although the ESI was not affordable, as referenced above, the coverage is not considered to meet minimum value standards.

Given that the Appellant had access to affordable public sponsored insurance, 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.

Based upon the facts summarized above, I find that where the Appellant knew that the plan was non-MCC in 2023 and did not investigate enrolling in publically sponsored insurance, and did not adduce substantial evidence of hardship that would have prevented him from purchasing public sponsored insurance, he could have afforded insurance at \$102.32 per month. Accordingly, I find that his circumstances did not prevent him from buying other insurance that met the requirements, he is subject to a penalty within the meaning of 956 CMR 6.08 (1), (2)(d), and (3).

However, in order to mitigate the harshness of a full penalty, and because he paid for non-affordable ESI that did not meet minimum creditable coverage offered by his employer and based upon the facts summarized above and on the totality of the evidence, it is concluded that the Appellant’s request for a waiver from the penalty is **approved in part**.

The Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 6

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-530

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 16, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on December 16, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

Exhibit 1:	Appeal Case Information from Schedule HC.	(1 P).
Exhibit 2:	Statement of Grounds for Appeal 2023 Signed by Appellant on 5/5/2024.	(2 PP).
Exhibit 2(a):	Appellant’s Statement in Support of Appeal dated	(1 P).
Exhibit 2(b):	Statement from Landlord regarding arrearages.	(1 P).
Exhibit 3:	Health Connector’s Notice of Hearing dated 11/15/2024.	(2 PP).

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return was married but filing separately with family size of 2, was age 32 in 2023, lived in Suffolk County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$153,716 (Exhibit 1).
3. The Appellant had Employer Sponsored Insurance (“ESI”) until he lost his job in January 2023 and did not have coverage until he obtained ESI with his new employer in September 2024. (Testimony, Exhibits 1, 2(a)).
4. The Appellant did not realize he qualified for unemployment until two and a half (2.5) months after his employment ended and he received \$2,028 per month. (Testimony, Exhibits 1, 2(a)).

5. The Appellant was eligible for but did not elect to pay for COBRA given that he was out of work and could not afford COBRA. (Testimony, Exhibit 2(a)).
6. According to Table 3 Appellant could have afforded \$1,024.77 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$326.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
7. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$54,930.00 for a family of two (2). (See Table 2 of Schedule HC 2023).
8. The Appellant provided credible testimony regarding his basic monthly necessity expenses as follows: Rent \$900, Car Payment: \$614.25, Car Insurance: \$127.25, Cell Phone: \$215.49, Private Student Loan: \$439.80, Credit Card minimums: \$650, Gym: \$23, Food: \$300. Totaling: \$3,269.79 month. (Testimony, Exhibit 2(a)).
9. The Appellant credibly testified that his rent was three (3) months in arrears, and he was fortunate to be able to set up a payment plan with the landlord. (Testimony, Exhibit 2,2(a)-(b)).
10. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for four (4) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of hardship experienced a financial hardship as defined in 956 CMR 6.08, and arrears in rent for more than 30 days, and that he was unable to unable to afford privately sponsored or obtain government subsidized insurance The Appellant adduced testimony at the hearing that his decision not to elect COBRA or purchase insurance was reasonable given the circumstances. (Exhibits 2(a)-(b) and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2023, \$153,716 was more than 300% of the federal poverty level, which for 2023 was \$54,930 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$1,024.77 per month. According to Table 4, Appellant, age 32 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$326 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant testified that his employment ended in late January 2023 and was not eligible for ESI (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI beginning in February and during the time he was being penalized. (Testimony).

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

I find the Appellant could not have afforded private insurance at \$1,024.77 per month during the times he was uninsured where he was unemployed from February through August 2023 and his unemployment did not begin until two and one-half 2.5 months after his employment ended. The Appellant credibly testified that his basic monthly necessities expenses of \$3,269.79 exceeded his unemployment income that was approximately \$2,028 per month. (Testimony, Exhibit 2). Accordingly, I find that the Appellant has met the hardship criteria, and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

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

I find the Appellant adduced substantial evidence as to why he did not purchase private insurance or COBRA, given the substantial costs and that he was out of work and wanted to save funds during the time he was uninsured. (Testimony, 956 CMR 6.08 (3)). Moreover, the mandate has not been lost on the Appellant as he obtained ESI when eligible upon resumption of employment. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-532

Appeal Decision: The penalty is overturned

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 16, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on December 16, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- | | | |
|---------------|---|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2023 Signed by Appellant on 5/9/2024. | (2 PP). |
| Exhibit 2(a): | Appellant’s Statement in Support of Appeal | (1 P). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 11/15/2024. | (2 PP). |

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return filed with a family size of 1, turned 26 in September 2023, lived in Suffolk County, and had zero dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$34,825. (Exhibit 1).
3. The Appellant, who is being penalized for twelve (12) months, testified that he began working in October 2023 and did not realize he would not be covered by his employer, and when he asked his employer, was not offered Employer Sponsored Insurance (“ESI”) until 2025 because he missed the enrollment period. (Testimony, Exhibit 1).
4. The Appellant testified he investigated Connector but was not eligible. (Testimony).

5. According to Table 3 Appellant could have afforded \$140.75 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$312.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
6. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family size of one (1). (See Table 2 of Schedule HC 2023).
7. The Appellant testified that he did not have income before October and when he became employed his weekly income [gross based on his Adjusted Gross Income] was approximately \$720 a week. (Testimony, Exhibit 1).
8. The Appellant testified his monthly living expenses included: Rent Assistance: \$1,000, Gas/Electric Utilities: \$60; Car Insurance: \$232; Cell Phone: \$260; Out of Pocket Medical Expenses: \$60, Other household support \$70, totaling \$1,782. (Testimony).
9. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. The Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of other circumstances. The Appellant adduced testimony at the hearing not affordable to the Appellant because Appellant experienced a financial hardship (Exhibits 2(a) and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2023, \$34,823 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$140.75 per month. According to Table 4, Appellant, age 26 and living in Suffolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$312 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that his employer told him he missed the open enrollment period and was not eligible for ESI. (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI (Appellant Testimony).

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

I find the Appellant could not have afforded private insurance at \$140.75 per month during the time he was being penalized given that his net monthly average income (based on an annual adjusted gross income of \$34,825, *Infra*, finding nos. 2 and 5) exceeded the cost of his monthly basic necessities of approximately \$1,782. (Testimony, Exhibit 2(a)). Accordingly, I find given the Appellant’s age-turning 26, and unknowingly not enrolling in ESI, that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). **However, the waiver from the penalty is only for 2023, and the Appellant was strongly encouraged to obtain ESI immediately or call the Connector in the event ESI is not affordable.**

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-534

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 16, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on December 16, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2023 Signed by Appellant on 5/9/2024. (2 PP).
- Exhibit 2(a): Appellant’s Bank Withdrawal Statement in Support of Appeal from 11/27/22-12-23(13 PP).
- Exhibit 2(b): Credit Card Account Statements (2023-24) regarding Expenses submitted in Support of Appeal. (2 PP).
- Exhibit 2(c): Credit Card Account Statements (2023-24) regarding Expenses submitted in Support of Appeal. (3 PP).
- Exhibit 2(d): Credit Card Statements regarding Expenses submitted in Support of Appeal (23/24) (3 PP).
- Exhibit 2(e): Account Expenses submitted in Support of Appeal (2/23-1/24) (6 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 11/15/2024. (2 PP).

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return was married but filing separately with family size of 1, was age 39 in 2023, lived in Plymouth County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$36,869 (Exhibit 1).

3. The Appellant had Employer Sponsored Insurance (“ESI”) until he lost his job in late 2022 and did not have coverage until he obtained ESI with his new employer in 2024. (Testimony).
4. The Appellant received \$942 per week in unemployment benefits until July 2023. (Testimony, Exs. 1, 2(a)).
5. According to Table 3 Appellant could have afforded \$149.01 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$335.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
6. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant’s income was less than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
7. The Appellant provided testimony regarding his basic monthly living necessity expenses as follows: Mortgage \$1,500, Insurance: \$100, Utilities (Electric): \$200, Oil: \$700 during winter/seasonal months: (approximately \$408), Food: \$400, Credit Cards \$700. Totalling approximately: \$3,308 month. (Testimony, Exs. 2(a)-(e)).
8. The Appellant credibly testified and corroborated with account and credit card statements that he needed to use his credit cards in order to pay his basic monthly living necessities. (Testimony, Exs. 2,2(a)-(e)).
9. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of hardship experienced a financial hardship as defined in 956 CMR 6.08, and that he was unable to afford government subsidized insurance. The Appellant adduced testimony and supporting documentation at the hearing evidencing the hardship and that his decision not to purchase insurance was reasonable given the circumstances. (Exhibits 2(a)-(e) and Appellant Testimony).

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

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

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

The evidence provided by the Appellant established that his income for 2023, \$36,869 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$149.01 per month. According to Table 4, Appellant, age 39 and living in Plymouth County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$335 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant credibly testified that his employment ended in late 2022 and was not eligible for ESI (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI during the time he was being penalized. (Appellant Testimony).

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

I find the Appellant could not have afforded private insurance at \$149.01 per month during the times he was uninsured where he was unemployed through 2024. (Testimony). The Appellant needed to use his unemployment benefits and credit cards to pay for his basic living necessities. Moreover, his unemployment benefits ended in July 2023. (Testimony). The Appellant credibly testified that his basic monthly necessities exceeded his unemployment income. (Testimony, Exhibit 2).

I find the Appellant adduced credible testimony and substantial evidence as to why he was not able to purchase health insurance, given the substantial costs and that he was out of work and needed to use his credit cards in order to pay his basic monthly necessities. (Testimony). 956 CMR 6.08 (3)). Moreover, the mandate has not been lost on the Appellant as he obtained ESI when eligible upon resumption of employment. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved in full**. Accordingly, I find that the Appellant has met the hardship criteria and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-540

Appeal Decision: The penalty is **overturned in part**

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 17, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on December 17, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2023 Signed by Appellant undated. (2 PP).
- Exhibit 2(a): Appellant’s Statement in Support of Appeal undated. (1 P).
- Exhibit 2(b): Employer Correspondence to the Appellant regarding Enrollment Window dated 3/1/23. (3 PP).
- Exhibit 2(c): Enrollment Benefits from Employer attached with Exhibit No.2(b) (2 PP).
- Exhibit 3: Health Connector’s Notice of Hearing dated 11/20/2024. (2 PP).

The record was left open until December 29, 2024, for the Appellant to submit and documents in support of the appeal including documents supporting expenses and enrollment of Employer Sponsored Insurance.

On December 24, the Appellant submitted the following:

- Exhibit 4: Cover Sheet Email to Connector referencing additional documents (1P).
- Exhibit 5: Documents Showing current coverage including plan details and Employer Document (3PP).

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return filed with a family size of 1, was age 40 in 2023, lived in Norfolk County, and had zero dependents. (Exhibit 1).
2. The Appellant's Federal Adjusted Gross Income for 2023 was \$151,807. (Exhibit 1).
3. The Appellant, who is being penalized for twelve (12) months, testified that he began working full time for the Employer in April 2022 and at that time had the understanding that he had enrolled in Employer Sponsored Insurance that would be effective for 2023. (Testimony, Exhibit 2(a)).
4. The Appellant testified that he did not find out that he was not insured in 2023 until the Fall of 2023 when his dependent needed health insurance coverage for which he had to pay out of pocket. (Testimony, Exhibits 1,2(a)-(c)).
5. The Appellant submitted documents from his employer benefits dated March 1, 2023, referencing his claims level request to enroll which referenced the Appellant did not enroll for benefits in the one-month window and the open enrollment period which was available from September 21, 2023 until October 22, 2023 for coverage effective in 2023.
6. The documents reflect that the Appellant did not contact his employer regarding benefits until January 2023. (Exhibits 2(b)).
7. I find that the Appellant had access to affordable ESI but was not able to enroll due to the Appellant not recognizing or conforming that he was enrolled in ESI. (Exhibits 1, 2(a)-(c)).
8. The Appellant testified he had he that he had substantial out of pocket expenses for a family member dependent. (Testimony, Exhibit 1).
9. The Appellant testified that he did not investigate Connector because he understood that he had ESI although the claims appeal was denied on March 1, 2023. (Testimony, Exhibit 2(b)).
10. According to Table 3 Appellant could have afforded \$1,012.05 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$358.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
11. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$40,770.00 for a family size of one (1). (See Table 2 of Schedule HC 2023).
12. The Appellant testified he obtained ESI in 2024 with the monthly employee share of \$203 every 2 weeks, or \$406 per month (Testimony, Exhibit 5).
13. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of Other: circumstances. The Appellant adduced testimony at the hearing that he attempted to enroll in benefits in April 2022 but that he found out subsequent did not save and he did not have benefits in 2023. (Exhibits 2(a) and Appellant's Testimony).

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

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

The evidence provided by the Appellant established that his income for 2023, \$151,807 was more than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$1,012.05 per month. According to Table 4, Appellant, age 40 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$358 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance("ESI") in 2023. The Appellant testified that his employer told him he missed the open enrollment period and was not eligible for ESI. (Testimony, Exhibit 2(a)). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the

employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant had access to affordable ESI but was not able to enroll due to the Appellant not recognizing, or confirming that he was not enrolled in ESI (Appellant Testimony).

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.

I find the Appellant could have afforded private insurance at \$1,012.05 per month during the time he was being penalized given that his gross monthly average income of \$12,650.83(based on an annual adjusted gross income of \$151,807, Infra, finding no. 2). (Testimony). Accordingly, I find given the Appellant's income, he did not meet any of the requirements to waive the penalty under 956 CMR 6.08 (1) (e) & (3). Although the Appellant did not discover he did not have ESI, the mandate has not been lost on him as he obtained ESI in 2024 when he was eligible, and thus to mitigate the harshness of a full penalty, the waiver is granted in part.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-553

Appeal Decision: The penalty is overturned **in part**.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 19, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant,” “Penalized Appellant”) and Spouse (who was not being penalized and had ESI) (hereinafter Appellants) appeared at the hearing, which was held by telephone on December 19, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellants. The Appellants both testified.

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

- | | | |
|---------------|--|---------|
| Exhibit 1: | Appeal Case Information from Schedule HC. | (1 P). |
| Exhibit 2: | Statement of Grounds for Appeal 2023 Signed by Appellant on 5/11/2024. | (2 PP). |
| Exhibit 2(a): | Correspondence from Office Patient Protection submitted by Appellant 8/23/24 | (1 P). |
| Exhibit 3: | Health Connector’s Notice of Hearing dated 11/20/2024. | (2 PP). |

The record shows, and I so find:

1. The Appellants filed a 2023 Massachusetts tax return filed with a family size of 2, were ages 26 and 27 in 2023, lived in Worcester County, and had zero dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$158,288. (Exhibit 1).
3. The Appellants were married in November 2022. (Testimony).
4. The Appellant testified she moved to Massachusetts in January 2023 and worked as a server. (Testimony).

5. The Appellant testified that in March, 2023 she had to wait for 60 days for ESI, and later in June was informed she had to wait for open enrollment to obtain Employer Sponsored Insurance (ESI). (Testimony).
6. The Appellant investigated obtaining ESI through her Spouse's plan but had to wait for Open Enrollment as they did not have a qualifying event. (Testimony).
7. The Appellant was not able to obtain Connectorcare because of income and she did not have a qualifying event. (Testimony, Exhibit 2(a)).
8. The Appellant however applied and was approved for a Waiver with the Office of Patient Protection in August 2023 but instead waited for the Open Enrollment Period for her Spouse's plan. (Testimony, Exhibit 2(a)).
9. The Appellant investigated private insurance, but the cost was approximately \$800-\$900 a month and was not affordable given that they had relocation expenses. (Testimony).
10. The Appellant obtained coverage in 2024 under her Spouse's ESI. (Testimony).
11. The Appellant Spouse had ESI and was not being penalized. (Exhibit 1).
12. According to Table 3 Appellants could have afforded \$1,055.25 per month for health insurance in 2023. According to Table 4 the Appellant could have purchased an individual plan insurance for \$326.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
13. The Appellants would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was more than 300% of the poverty level, which was \$54,930.00 for a family of two (2). (See Table 2 of Schedule HC 2023).
14. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. The Appellants have been assessed a tax penalty for twelve (12) months in 2023 for one spouse not having insurance. The Appellants have appealed the penalty. (See Exhibits 1 and 2).

The Appellants submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to them because of other circumstances. The Appellants adduced testimony at the hearing that the Appellants attempted to obtain insurance but did not have a qualifying life event and had to wait until 2024. (Exhibits 2(a), Testimony).

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

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

The evidence provided by the Appellants established that their income for 2023, \$158,288, that the uninsured spouse they moved to Massachusetts. (Testimony). Although their 2023 married filing jointly income was more than 300% of the federal poverty level, which for 2023 was \$54,930 for a family of two (2). According to Table 3 of Schedule HC for 2023, the Appellants could have afforded \$1,055.25 per month given income. According to Table 4, the Appellant being penalized, ages 26 and living in Worcester County during the time they were being penalized for not having insurance, could have purchased an individual insurance plan for the penalized Spouse for \$312 per month. Individual coverage was affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance (“ESI”) in 2023. The Appellant testified that she was not eligible for ESI from her employer initially because she had to wait sixty (60) days and later in 2023 because she did not have a qualifying life event (Testimony, Exhibit 2). The Appellant also was not eligible for ESI from her Spouse’s ESI because they did not have a qualifying event. (Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector’s ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee’s contribution for an individual plan is 9.12 percent or less of the employee’s projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant may have been eligible from her Employer for ESI after the 60 day waiting period but was informed she had to wait for open enrollment for ESI in 2024(Appellant Testimony).

Notwithstanding whether affordable ESI was available, given that affordable private insurance was available to the Appellant, it must be determined if such insurance was not affordable to the Appellant because of a financial hardship as defined in 956 CMR 6.08 or other reasons under the regulations.

I find the Appellants could have afforded private insurance at \$1,055.25 per month during the time the Appellant was being penalized given that the Appellants' income was \$158,288. Although the Appellant was unable to obtain ESI from her employer, or her Spouse's Employer, she was granted a waiver to purchase insurance in August, or Connectorcare because she did not have a qualifying life event. However, the Appellant could have applied for a Waiver in August 2023 but instead waited to obtain insurance under her Spouse's ESI until 2024. (Exhibit 2(a).) Accordingly, I find the Appellant did not adduce substantial evidence as to why she did not obtain affordable insurance and that that the Appellants have not met the hardship criteria, and that purchasing health insurance would not have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3). However, the mandate was not lost on the Appellants where she obtained ESI from his Spouse's Employer as soon as she became eligible. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved in part**.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION: PA 23-554

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 19, 2024

Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant (“Appellant”) appeared at the hearing, which was held by telephone on December 19, 2024. Procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the Appellant. The Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 P).
- Exhibit 2: Statement of Grounds for Appeal 2023 Signed by Appellant on 5/11/2024. (2 PP).
- Exhibit 2(a): Correspondence from Office Patient Protection submitted by Appellant dated 8/23/24 (1 P).
- Exhibit 3: Health Connector’s Notice of Hearing dated 11/20/2024. (2 PP).

The record shows, and I so find:

1. The Appellant filed a 2023 Massachusetts tax return was single with family size of 1, was age 23 in 2023, lived in Norfolk County, and had zero (0) dependents. (Exhibit 1).
2. The Appellants’ Federal Adjusted Gross Income for 2023 was \$37.474 (Exhibit 1).
3. The Appellant moved to Massachusetts in 2022 and had no permanent residence and had to use his income to pay for hotels, until May 2023. (Testimony).
4. The Appellant began employment in February 2023 but testified he had to wait for Employer Sponsored Insurance (“ESI”) until after 60 days of employment, and when he attempted to enroll was not eligible until the next open enrollment period for coverage effective in 2025. (Testimony).

5. The Appellant testified he was unaware of the Connectorcare as he had relocated in 2022 from another state. (Testimony).
6. The Appellant received \$1,542 per biweekly pay period in employment income. (Testimony).
7. According to Table 3 Appellant could have afforded \$151.46 per month for health insurance in 2023. According to Table 4 Appellant could have purchased an individual plan insurance for \$312.00 per month. (See Tables 3 and 4 of Schedule HC 2023).
8. The Appellant would have been eligible for ConnectorCare coverage in 2023 because the Appellant's income was less than 300% of the poverty level, which was \$40,770.00 for a family of one (1). (See Table 2 of Schedule HC 2023).
9. The Appellant provided credible testimony regarding estimates of his basic monthly living necessity expenses as follows: Hotel occupancy \$2,400, Gas for vehicle: \$400, and total expenses including rent, insurance, Utilities, Food totaling approximately: \$2,500 month. (Testimony).
10. The Appellant credibly testified the Appellant as he obtained ESI in 2024. (Testimony).
11. In addition to the foregoing, I take administrative notice of the 2023 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2023>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2023 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part. Appellant has been assessed a tax penalty for twelve (12) months in 2023. Appellant has appealed the penalty. (See Exhibits 1 and 2).

The Appellant submitted a statement of grounds for appeal (Ex. 2) with the appeal that during 2023 that the individual mandate did not apply to him because of hardship experienced a financial hardship as defined in 956 CMR 6.08, and that he was unable to afford government subsidized insurance (Testimony).

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

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

The evidence provided by the Appellant established that his income for 2023, \$37,474 was less than 300% of the federal poverty level, which for 2023 was \$40,770 for a family of one (1). According to Table 3 of Schedule HC for 2023, the Appellant could have afforded \$151.46 per month. According to Table 4, Appellant, age 23 and living in Norfolk County during the time he was being penalized for not having insurance, could have purchased an individual insurance plan for \$312 per month. Individual coverage was not affordable through the individual market for the Appellant in 2023 (Schedule HC for 2023).

The next issue to consider is whether the Appellant had access to affordable employer health insurance ("ESI") in 2023. The Appellant credibly testified that his employment began in February and that he was unable to obtain ESI in 2023 after a 60-day waiting period, and then had to wait for the open enrollment period. (Testimony). Pursuant to 26 IRC section 36B and 45 CFR section 155.305(f), applicants are eligible for an Advanced Premium Tax Credit (APTC) if they meet qualifying income levels and other eligibility requirements. Massachusetts residents may also be eligible for additional state premium assistance through the Health Connector's ConnectorCare program if: a) their household income does not exceed 300 percent of the Federal Poverty Level (FPL) and b) they are eligible for an APTC. 956 CMR 12.09(1) An applicant who has access to other qualifying health insurance, including insurance through an employer, will be blocked from eligibility for an APTC if the coverage is affordable and meets minimum value standards, as those terms are defined by the law. See 26 CFR section 1.36B-2(c)(3). Coverage for plan year 2023 is considered to be affordable if the employee's contribution for an individual plan is 9.12 percent or less of the employee's projected household modified adjusted income (MAGI). The coverage is considered to meet minimum value standards if it has an actuarial value of at least 60 percent. In this case, as referenced above, the Appellant was not eligible for ESI during the time he was being penalized. (Appellant Testimony).

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

I find the Appellant could not have afforded private insurance at \$151.46 per month during the months he was uninsured where he did not have a permanent residence and needed to use his income to pay for hotels until May 2023. Thereafter, his approximate monthly net income was subsumed in his monthly basic necessary living expenses of approximately \$2,500. (Testimony, Exhibit 2).

I find the Appellant adduced substantial evidence as to why he was not able to purchase health insurance, (Testimony, 956 CMR 6.08 (3)). Moreover, the mandate has not been lost on the Appellant as he obtained ESI in 2024. Accordingly, based upon the facts summarized and on the totality of the evidence, it is concluded that the Appellant's request for a waiver from the penalty is **approved in full**. Accordingly, I find that the Appellant has met the hardship criteria and that purchasing health insurance would have caused the Appellant to experience financial hardship. 956 CMR 6.08 (1) (e) & (3).

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

FINAL APPEAL DECISION

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

Hearing Issue:Appeal of the 2023 Tax Year Penalty

Hearing Date: November 25, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

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

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Exhibit 3	Correspondence from the Appellant.	1 page
Exhibit 4	Health Connector Website Print Out	5 pages
Exhibit 5	Correspondence from Prior Employer	1 page

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 23 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$65,759.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 484% 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 2023, the Appellant was employed part-time as a Personal Trainer at a gym, a position she began in August 2022 and held through the tax year 2023. (Appellant's Testimony).
5. The Appellant was employed for the full year and did not have any job disruptions during the year 2023.
6. Appellant was not offered health insurance by her employer.
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$65,759.00 was deemed able to pay \$438.39 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 23 and living in Middlesex County, could have purchased private insurance for \$312.00 per month.

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10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The appellant testified and submitted correspondence indicating a lack of awareness regarding the open enrollment period.
15. According to her April 2024 correspondence (Exhibit 3), she lost her employment and health insurance around March 2022. She attempted to apply for health insurance through the Health Connector website on May 3, 2022 and May 5, 2022. During this process, the Health Connector requested additional documentation related to her residency and proof of her loss of insurance.
16. The appellant testified that even after uploading the requested documents, her application status remained "verification pending," preventing her from purchasing health insurance in 2022.
17. She applied again in October 2022 but was denied, as she did not qualify for a special enrollment period. During the hearing, the appellant stated that she was unaware of the Office of Patient Protection (OPP) and did not contact them after her denial.
18. In 2023, the appellant testified and corroborated in correspondence that she did not attempt to apply for health insurance through the Health Connector until November 2023, believing open enrollment began at that time. She admitted to taking no action to apply for health insurance during 2023.
19. The appellant acknowledged being unfamiliar with the open enrollment

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period and admitted to doing little to no research to understand her obligations or the enrollment process. (Appellant's Testimony).

20. The appellant attributed her inability to secure health insurance in 2022 to the Health Connector, citing the persistent "verification pending" status on her application. However, the appellant was able to apply in October 2022 but was denied due to her ineligibility for a special enrollment period. Her testimony conflated the events of 2022 with 2023, which the hearing officer found unsubstantiated.
21. The appellant, per her testimony, is not appealing due to financial hardship or an inability to afford health insurance. Instead, she is seeking a waiver based on her stated difficulties navigating the Health Connector's website in 2022. (Appellant's Testimony).
22. Specifically, she claims that the "verification pending" status on her application prevented her from successfully enrolling in coverage, despite her efforts to upload the requested documentation. Her appeal focuses on these technical challenges rather than any financial constraints.
23. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

The Appellant was unaware of the individual mandate, according to her testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 465 n.14 (2013).

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.

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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 2023. 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 during the year 2023. (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.

In Massachusetts, the determination of affordability for employer-sponsored health plans, or Employer-Sponsored Insurance ("ESI"), is guided by state-specific guidelines. According to the 2023 Schedule HC instructions for the relevant tax year, the affordable premium is calculated based on a percentage of income that aligns with the individual's income range and filing status, as outlined in Table 3: Affordability, found on page HC-10. In this case, the maximum affordable amount for the Appellant, based on their income range and filing status, is 8.00%.

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

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you

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from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program. The Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit. In 2023, the Appellant's income was 483.88% of the federal poverty level.

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

Appellant's Engagement with the Health Connector

The Appellant testified that they applied for health insurance through the Health Connector outside of the open enrollment period, specifically in 2022. Massachusetts residents may qualify for a Special Enrollment Period (SEP) due to specific life events, such as the loss of coverage, but eligibility for an SEP must be established. In cases where eligibility is not met, individuals must petition for a waiver from the Office of Patient Protection (OPP). The Appellant's provision of supporting documentation enhances the credibility of her testimony regarding her 2022 application issues.

The Appellant submitted correspondence (Exhibit 3) indicating a lack of awareness of the open enrollment period and testified that she lost her employment and health insurance around March 2022. She attempted to apply for health insurance through the Health Connector website on May 3 and May 5, 2022. During this process, the Health Connector requested additional documentation related to her residency and proof of loss of insurance. Despite uploading the requested documents, her application status remained "verification pending," which prevented her from purchasing health insurance in 2022.

In October 2022, she applied again but was denied coverage because she did not qualify for an SEP. The Appellant acknowledged during the hearing that she was unaware of the OPP and did not contact them following this denial. Her testimony conflated the events of 2022 with those of 2023. For example, in 2023, she did not attempt to apply for health insurance through the Health Connector until November 2023, believing open enrollment began at that time. She admitted to taking no action to apply for health insurance during the entirety of 2023 and testified that her lack of familiarity with the open enrollment process contributed to her inaction.

The Appellant's appeal focuses on the technical difficulties she experienced in 2022,

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including the “verification pending” status of her application, which she claims prevented her from successfully enrolling in health insurance despite her attempts to comply with documentation requests. Her 2022 challenges, rather than her inaction in 2023, form the crux of her appeal.

Importantly, the Appellant is not seeking relief due to financial hardship but instead attributes her inability to secure health insurance in 2022 to systemic and technical issues with the Health Connector’s website. The hearing officer noted that the Appellant’s testimony regarding these issues was credible to the extent that it described her efforts to resolve her 2022 application, though it lacked substantiation regarding her conflation of events across both years.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$65,759.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$438.39 per month; according to Table 4, Appellant, who was 23 years old in 2023, lived in Middlesex County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 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 (\$5,479.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$438.39 per month), the Appellant could have afforded private health insurance with a premium of \$312.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

However, the Appellant is not appealing based on financial hardship and made no such claims in her documentation or testimony. In fact, she explicitly admitted during the hearing that she did not experience financial hardship and is not seeking relief on that basis.

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The appeal is denied because the Appellant admitted to failing to investigate when and how to obtain health insurance through the Health Connector under its rules. The Appellant did not contact the Health Connector to inquire about her application status and instead relied solely on checking the website. This demonstrates a lack of due diligence on her part in 2023.

Additionally, the Appellant testified to being unaware of the individual mandate law but made no effort to familiarize herself with the requirements for obtaining health insurance or the information readily available on the Health Connector's website. Ignorance of the law does not excuse her failure to meet her obligations under the individual mandate.

The Appellant's claims against the Health Connector were also rejected. Her October 2022 application demonstrated that she was able to apply but was denied coverage due to not meeting eligibility requirements. Despite her testimony attributing her inability to secure health insurance to technical challenges, she failed to substantiate these claims with evidence of continued effort or follow-up. Instead, her inaction and lack of inquiry further highlight her failure to take the necessary steps to obtain coverage.

Conclusion

The Appellant has not demonstrated that she experienced a financial hardship as defined under 956 CMR 6.08(1)(e) and explicitly admitted that no such hardship exists. Her lack of due diligence and failure to meet her obligations under the individual mandate preclude the waiver of her 12-month penalty. Accordingly, the appeal 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

CONNECTOR APPEALS UNIT



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.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-514

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 9, 2024

Decision Date: December 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds form (w/ attachments) (13 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 53 at the end of 2023. Exhibit 2.
2. Appellant lived in Hampden County in 2023. Exhibit 2.
3. Appellant filed her taxes as the head of household with one dependent. Exhibit 2. The dependent was a minor child.
4. Appellant's household income in 2023, as reported on her 2023 state income tax returns and confirmed at the hearing, equaled \$278,969.

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

5. Appellant reported in the Schedule HC that she filed with her 2023 state income taxes, and confirmed at the hearing, that she did not have health insurance meeting minimum creditable coverage standards at any point in 2023. Exhibit 2.
6. During 2023, Appellant was employed at a job with an out-of-state employer. That employer offered her health insurance, which she accepted. She was enrolled in that insurance throughout the entire year.
7. Appellant submitted evidence about the plan under which she was insured during 2023. See Exhibit 3 at pages 6-11 (description of benefits). The health insurance in which she was enrolled was self-funded by her employer and was administered by a national insurance company. It provided coverage for a comprehensive set of medical services.
8. The plan had annual deductibles of \$3,000 for an individual and \$6,000 for a family. It had a maximum out-of-pocket limit of \$4,000 for an individual and \$8,000 for a family. Id.
9. Appellant testified that she paid an annual premium of \$3,922 for this insurance.
10. Appellant did not realize that this coverage did not meet Massachusetts minimum creditable coverage requirements until she filed her 2023 taxes.
11. Since 2023, Appellant has lost her job and so is no longer covered by that insurance. She did not have insurance at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to satisfy the requirements of Chapter 111M, the coverage must be “creditable” as that term is defined in the statute. To be “creditable,” coverage must meet the standards for “minimum creditable coverage” (MCC) established by the Health Connector’s board. M.G.L. c. 111M, § 1 (clause “a” of the definition of “creditable coverage”). Those standards are stated in regulations that require, among other things, that the annual deductible not exceed an amount set each year by the Health Connector board. 956 C.M.R. § 5.03(2)(b). Additionally, the regulations provide that a plan must establish an annual maximum for out-of-pocket expenditures not to exceed an amount set each year by the Health Connector Board. Id. § 5.03(2)(c). For 2023, that maximum deductible allowed was \$2,850 for an individual and \$5,700 for a family. Administrative Information Bulletin 02-22, “Guidance Regarding Minimum Creditable Coverage Regulations for Calendar Year 2023” (issued May 16, 2022) (available at <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin02-22.pdf>). The out-of-pocket maximum allowed was \$9,100 for an individual and \$18,200 for a family.

The plan that Appellant obtained through her employment varied from the regulations because the annual deductibles were \$3,000 and \$6,000 as opposed to \$2,850 and \$5,700. However, the out-of-pocket expenditure limits were well below the maximum permitted by the Health Connector Board. Because of the variance in deductible amounts, the health insurance plan Appellant obtained did not meet MCC requirements.

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

During 2023, Appellant was offered insurance through her employer, but that insurance did not meet MCC standards. Thus, she could not have obtained MCC-compliant insurance through employment.

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 income below 300 percent of the federal poverty level and meet the other eligibility requirements, such as citizenship or legal permanent resident status, and lack of access to employer-subsidized insurance. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty level for a person like Appellant who was in a two-person household was \$54,930. (I obtain this figure from Table 2 of the 2023 instructions to the Schedule HC.) Appellant's income of \$278,969 was above that amount and thus she was not eligible.

However, Appellant could have afforded to purchase insurance on the non-group market under affordability standards established by the Health Connector board in accordance with Mass. Gen. Laws c. 111M. Under those standards, an individual like Appellant who was in a household of two persons and had annual income of \$278,969 was deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$22,317 annually or \$1,859 a month. During 2023, a person like Appellant who lived in Hampden County and was 53 years of age could have obtained family insurance on the non-group market for a monthly premium of \$1,185. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2023, but didn't, I must 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. Appellant purchased comprehensive insurance that covered her and her dependent child. The variation between that insurance and MCC standards was slight, amounting to a difference of only \$150 and \$300 in the annual individual and family deductibles. Under the governing regulations, I can take into account the cost of non-MCC compliant insurance purchased by Appellant. 956 C.M.R. § 6.08(2)(c). The cost of the plan purchased by Appellant, which was about \$3,922 annually, was not inconsiderable. It was, however, much less than she would have had to pay for comparable insurance in the non-group market. Thus, the purchase of the employer-sponsored plan

was a reasonable one. Further, I conclude that Appellant was not trying to avoid the cost of purchasing insurance. Rather, she reasonably purchased comprehensive insurance at an affordable price offered by her insurance. In light of all those factors, I will exercise my discretion and waive the penalty.

During the hearing, Appellant stated that since 2023 she has lost her job and was no longer insured. Appellant was urged to shop for insurance through the Health Connector and, when applying, to ask to see if she was eligible for financial assistance that would lower the cost of the insurance. Appellant can apply by visiting the Health Connector's website at www.mahealthconnector.org or by calling the Customer Service Center at 877-623-6765. When applying, Appellant should state that she wants financial assistance. Open enrollment season will last until January 23, 2025. After that date, it might not be possible to obtain 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 2020.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-515

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 9, 2024

Decision Date: December 18, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 9, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 24 at the end of 2023. Exhibit 2.
2. Appellant lived in Suffolk County in 2023. Exhibit 2.
3. Appellant filed his taxes as a single person with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$47,926. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes that he did not have health insurance at any point in 2023. Exhibit 2.
6. However, at the hearing Appellant testified credibly that this filing was erroneous and that he did have insurance through September. He identified the insurance company and the school through which he obtained insurance. Appellant stated that when he filed his income taxes, he could not figure out how to report that he was uninsured for only part of the year.
7. Appellant came to Boston from Europe to study at a college here. He was in school through June. While he was in school, he was insured through a student plan that covered him through the summer of 2023.
8. After finishing school, Appellant worked on a contractor basis. He was not offered insurance through that job.
9. In September 2023, anticipating the end of his student coverage, he attempted to purchase health insurance. Appellant was unfamiliar with how to obtain insurance in the United States.
10. In the course of searching for insurance, he visited a website that asked him to provide his telephone number. Shortly afterward, he was called by a person who told him that he could purchase health insurance for a cost of \$500. Appellant wired the money as instructed. He later learned that the entity he believed was covering him did not exist.
11. Appellant reported the incident as a scam to the Attorney General's consumer complaint division. Exhibit 3 at 6-9 (record of complaint). However, he never recovered the money that he lost.
12. He remained uninsured for the balance of 2023.
13. In 2024, Appellant obtained regular employment and was offered insurance through work. He was insured as of the date of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

First, although Appellant reported on his tax return that he was uninsured for the entire year, I have found that he was in fact covered through his student insurance policy until September 2023. He stated that his tax return was erroneous because he could not figure out to report that he was uninsured for only part of the year. Thus, because I have found that Appellant was insured for the first eight months of the year, I will only consider the period from September through December when he was uninsured.

During 2023, Appellant worked at a job, but he was not eligible to receive health insurance through that employment.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$47,926 and therefore he was not income-eligible for Connector Care.

Finally, Appellant could not have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, an individual like Appellant who was in a household of one person and had annual income of \$47,926 was deemed able to afford only 7.6 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$3,642 annually or \$303 a month. During 2023, a person like Appellant who lived in Suffolk County and was 24 years of age would have had to pay a premium of at least \$312 a month to obtain health insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would not have been affordable.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-516

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 9, 2024

Decision Date: December 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellants are a married couple who will be referred to herein as Husband and Wife. Husband appeared at the hearing, which was held by telephone, on December 9, 2024. The hearing record consists of the testimony of Husband, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (9 pages)

FINDINGS OF FACT

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

1. Appellants are a married couple. Husband was 42 and Wife was 40 at the end of 2023. Exhibit 2.
2. Appellants lived in Essex County in 2023. Exhibit 2.
3. Appellants filed their taxes as married filing jointly with three dependents. Exhibit 2. The three dependents were minor children. The youngest child was born in December 2023, so that for most of the year Appellants were in a household of four persons, not five.

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

4. Appellants' household income in 2023, as reported on their 2023 state income tax returns and confirmed at the hearing, equaled \$242,137. Exhibit 2.
5. Appellants reported in the Schedule HC that they filed with their 2023 state income taxes, and confirmed at the hearing, that neither of them had health insurance from January through May of 2023, but did have such insurance from June through December. Exhibit 2.
6. At the end of 2022, Husband was laid off from his job. He had been in a high-paying position and the family had obtained health insurance through his work. When he was laid off, he no longer had access to employer-sponsored health insurance.
7. Appellant was offered insurance through COBRA, a federal law requiring that persons who have left an employer-sponsored insurance plan be offered a continuation of that insurance for 18 months at full cost. The cost of the COBRA coverage would have been approximately \$2,000 a month.
8. Husband began looking for employment after his layoff. He was not successful until he found a new job in May. That job offered him health insurance, and the family became insured starting in June. Appellants were insured as of the date of the hearing.
9. During the five months at the start of 2023 when Appellants were uninsured, Wife worked at a job that did not offer her health insurance. Wife's earnings during the year were approximately \$70,000. This amounts to \$5,833 a month.
10. While unemployed, Husband received unemployment compensation of approximately \$1,000 a week or \$4,000 a month.
11. Thus, during the period of unemployment, Appellants lived on a monthly income of about \$9,833.
12. The balance of the income reported on Appellants' 2023 taxes consisted of Husband's earnings in the period of June through December, while included a \$20,000 signing bonus.
13. Appellant offered evidence that they had a monthly payment for mortgage, insurance and taxes of \$3,700 a month. Also, the two older children were in school at an annual tuition of \$4,458 or \$371 a month.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring 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 can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03->

[10.pdf](#), interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellants lacked insurance for five months out of the year. Because they were entitled to a three-month gap without penalty, they have each been assessed a penalty for only two months.

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

During the period of 2023 in which Appellants were uninsured, Husband was unemployed and Wife worked at a job that did not offer her health insurance. Thus, they did not have access to employment-based insurance at that time.

Further, Appellants would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of five persons like Appellants' was \$97,410. (I obtain the figure of \$97,410 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellants' household income during 2023 was \$242,137 and therefore they were not income-eligible for Connector Care.

However, Appellants could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellants who were in a household of five persons and had annual income of \$242,137 were deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$19,370 annually or \$1,614 a month. During 2023, persons like Appellants who lived in Essex County and were in a family in which the oldest person was 42 years of age could have obtained insurance to cover a family for a premium of \$898 a month. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellants could have obtained affordable insurance in 2023 but didn't, I must determine whether they have stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that they have.

First, in this case, strict application of the affordability standards would be inequitable. Although Appellants' annual income was \$242,137, well more than half of that income was earned in the months when Husband was working, which was also the time when Appellants were insured. During the time that Appellants were uninsured, Appellants' income, as found above, was approximately \$9,833 a month, consisting of Wife's earnings and Husband's unemployment compensation. If annualized, that amount would be \$117,996. Under the affordability standards, a family with that income could afford 8

percent for insurance; this amount would be \$9,439 annually or \$786 a month. That amount would have been significantly less than the \$898 a month needed to purchase family health insurance. See Tables 3 and 4 to the instructions for the 2023 Schedule HC. For the same reason, Appellants would not have been able to afford the COBRA continuation coverage, which would have cost \$2,000 a month.

Additionally, Appellants had considerable expenses during the period when their income was reduced. They had housing costs of \$3,700 a month and tuition expenses of \$371 a month. Those costs alone would have consumed about 40 percent of their monthly income. Further, Appellants were expecting a third child, which would have added to their financial concerns.

In light of those circumstances, I conclude that the cost of purchasing health insurance during the period of time when Appellants were uninsured would have caused them to experience a serious deprivation of the necessities of life. This constitutes grounds to waive the individual mandate penalty under governing regulations. 956 C.M.R. § 6.08(1)(e). Thus, I will allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Husband

Number of Months Appealed: 2

Number of Months Assessed: 0

Wife

Number of Months Appealed: 2

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-519

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 12, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 12, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice (2 pages)
- Exhibit 2: Appeal Case Information sheet¹ (1 page)
- Exhibit 3: Statement of Grounds (with attachments) (13 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 27 at the end of 2023. Exhibit 2.
2. Appellant lived in Middlesex County in 2023. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$60,223. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes that he did not have health insurance at any point in 2023. Exhibit 2.
6. However, Appellant testified credibly at the hearing that he was in fact insured from January through May and then again from October through December. He also presented corroborating documents, consisting of communications from human resources departments at two different employers, discussing his health insurance benefits. Exhibit 3 at pages 9, 13.
7. At the start of 2023, Appellant was working at a job that provided him with health insurance.
8. In May 2023, he was laid off from that job. He was offered the opportunity to continue his health insurance under COBRA, which is the federal law requiring that persons who have left a job be allowed to continue in their health insurance for a period of time at their own expense. The cost of the COBRA coverage was \$584 a month. Exhibit 3 at page 9. Appellant considered that too expensive and opted not to take it.
9. Appellant then began to look for new employment. He had trouble signing up for unemployment compensation because his Social Security number had been compromised. As a result, he was receiving no income for most of the period of his unemployment. Eventually, in the middle of August, he received \$584 in unemployment compensation. Exhibit 3 at pages 10-12.
10. In late August, Appellant received an offer of new employment. Exhibit 3 at page 13. That job provided Appellant with health insurance, which he accepted.
11. Appellant was insured as of the date of the hearing.
12. Appellant believed that he had made an error while filing his 2023 taxes on-line. This error resulted in him reporting that he was uninsured for the entire year, when in fact he was only uninsured for four months.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

As a threshold matter, I have found that Appellant was in fact insured for eight months of the year, running from January through May and then again from October through December. As a result, he was only uninsured for four months. The fact that he was assessed a penalty for being uninsured for the entire 12 months of the year resulted from his error in filing his income taxes.

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring 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 can be found at

<https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for four months out of the year. Because he was entitled to a three-month gap without penalty, he should have been assessed a penalty for only one month.

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

During the period of 2023 in which Appellant was uninsured, he was unemployed. Thus, he did not have access to employment-based insurance at that time.

Further, Appellant would not have been eligible to receive Connector Care, which is government-subsidized health insurance in Massachusetts. To be eligible for Connector Care, an individual must have household income below 300 percent of the federal poverty limit. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellant's was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellant's household income during 2023 was \$60,223 and therefore he was not income-eligible for Connector Care.

However, Appellant could have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellant who was in a household of one person and had annual income of \$60,223 were deemed able to afford 8 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$4,817 annually or \$401 a month. During 2023, persons like Appellant who lived in Middlesex County and were 27 years of age could have obtained insurance for a premium of \$312 a month. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

Because Appellant could have obtained affordable insurance in 2023 but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has.

In this case, strict application of the affordability standards would be inequitable. Although Appellant's annual income was \$60,223, almost all of that income was earned in the months when Appellant was working, which was also the time when he was insured. During the time that Appellant was uninsured, he effectively had no income because he was not receiving unemployment due to difficulties in applying. Even when he eventually received unemployment, it was only \$584. This would have been inadequate to insure him for the four months that he was out of work and without insurance, because, as stated

above, insurance would have cost at least \$312 a month. Further, as soon as Appellant found a new job, he obtained insurance again and was insured as of the date of the hearing.

In light of those circumstances, I conclude that the cost of purchasing health insurance during the period of time when Appellant was uninsured would have caused him to experience a serious deprivation of the necessities of life. This constitutes grounds to waive the individual mandate penalty under governing regulations. 956 C.M.R. § 6.08(1)(e). Thus, I will allow the appeal and waive the penalty in full.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-522

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 12, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 12, 2024. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

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

FINDINGS OF FACT

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

1. Appellant was 34 at the end of 2023. Exhibit 2.
2. Appellant lived in Barnstable County in 2023. Exhibit 2.
3. Appellant filed his taxes as single with no dependents. Exhibit 2.
4. Appellant's household income in 2023, as reported on his 2023 state income tax returns and confirmed at the hearing, equaled \$32,589. Exhibit 2.

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

5. Appellant reported in the Schedule HC that he filed with his 2023 state income taxes that he did not have health insurance from January through October of 2023, but did have it for November and December. Exhibit 2.
6. Appellant worked a part-time job with an inconsistent schedule. He could not obtain health insurance through that work.
7. Appellant did not know about the availability of state-subsidized health insurance until November when he had to go to the emergency room of a hospital for a medical issue. There, a financial counselor helped him apply and he was accepted into MassHealth, the state's Medicaid program for people with low income.
8. He was covered through MassHealth in November and December of 2023 and throughout 2024. He was covered at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Under M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of insurance without incurring 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 can be found at <https://betterhealthconnector.com/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf>, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In this case, Appellant lacked insurance for 10 months out of the year. Because he was entitled to a three-month gap without penalty, he has been assessed a penalty for only seven months.

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

During 2023, Appellant worked at a part-time job. He could not obtain insurance through that job. Thus, he did not have access to employment-based insurance at that time.

Further, Appellant could not have afforded to purchase health insurance on the non-group market under affordability standards established by the Health Connector Board pursuant to M.G.L. c. 111M. Under those standards, individuals like Appellants who are in a household of one person and had annual income of \$32,589 were deemed able to afford only 4.1 percent of income on insurance. (I obtain that figure from Table 3 of the 2023 instructions for the Schedule HC.) In this case, that amounts to \$1,336 annually or \$111 a month. During 2023, persons like Appellants who lived in Barnstable County and were 34 years old would have had to pay a premium of at least \$326 to obtain insurance. (I obtain the premium figure from Table 4 to the instructions for the 2023 Schedule HC). Thus, under state standards, this amount would have been affordable.

However, Appellants 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 and meet other eligibility requirements such as citizenship or legal permanent residency in the United States. See 956 C.M.R. § 12.04 (Connector Care eligibility requirements.) In 2023, 300 percent of the federal poverty limit for a household of one person like Appellants' was \$40,770. (I obtain the figure of \$40,770 from Table 2 to the instructions for the 2023 Schedule HC.) In this case, Appellants' household income during 2023 was \$32,589 and therefore he was income-eligible for Connector Care. Further, I conclude that he met the other eligibility requirements for Connector Care because in November he was determined eligible for MassHealth, which has similar eligibility requirements.

Because Appellant could have obtained affordable insurance in 2023 but didn't, I must determine whether he has stated grounds sufficient to waive the penalty under Health Connector regulations. 956 C.M.R. § 6.08. I conclude that he has.

Appellant had low income and experienced financial uncertainty due to the variability in his schedule. Given the expenses that he documented, which included student loan payments, he had practically no extra income. In those circumstances, it was understandable that he believed he could not afford health insurance. He was unaware of the possibility of applying for subsidized health insurance, which would have allowed him to obtain insurance at no or very low cost. He only became aware of that option when he went to a hospital for treatment and was assisted by a financial counselor who applied on his behalf. As a result, he obtained coverage through MassHealth and was covered as of the date of the hearing.

In light of those circumstances, I will exercise my discretion 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

CONNECTOR APPEALS UNIT



Exhibit 3 Correspondence from the Appellant.

1 page

Exhibit 4 Health Connector Website Print out

2 Pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 29 years old in the beginning of 2023. Appellant filed his 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Suffolk County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$62,315.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 459% of the Federal Poverty level and based on his income, if all other conditions were met, he would be INELIGIBLE based on his income for ConnectorCare.
4. In 2023, the Appellant was self-employed as a Marketing Consultant in a full-time capacity. (Appellant's Testimony).
5. The Appellant was self-employed for the full year and did not experience any disruptions in his work during 2023.
6. As a self-employed individual, the Appellant was not provided with health insurance.
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$62,315.00 was deemed able to pay \$415.43 per month for health insurance, or 8.00% of his income. According to Table 4, Appellant, age 29 and living in Suffolk County, could have purchased private insurance for \$312.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).

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11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance. (Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The Appellant testified that, following his layoff in 2022, he mistakenly continued his health insurance coverage through COBRA. This coverage lasted for six (6) months but ultimately ended due to non-payment.
15. The Appellant testified that once his COBRA coverage lapsed due to non-payment, he attempted to apply for health insurance through the Health Connector in the spring of 2023, outside of the open enrollment period. He explained that his application was denied because he did not meet the criteria for a qualifying life event.
16. To support this, he provided Exhibit 4, which consisted of two pages printed from the Health Connector website. The exhibit included a statement indicating that his household did not qualify for a special enrollment period.
17. During the hearing, the Appellant was questioned about whether he had received correspondence from the Health Connector confirming the denial via first-class mail. He stated that he was uncertain; he might have received such correspondence but did not specifically recall it. (Appellant's Testimony).
18. When asked whether he had received information from the Health Connector regarding the Office of Patient Protection, he testified that he did not recall receiving any such information. (Appellant's Testimony).
19. The hearing officer, familiar with the standard correspondence issued for special enrollment decisions, noted that such communications typically include information about the Office of Patient Protection. This correspondence advises individuals denied a special enrollment period to contact the Office of Patient

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Protection to request a waiver, potentially allowing them to enroll in health insurance outside of the open enrollment period.

20. The Appellant further testified that after being denied a special enrollment period, he took additional steps to try to secure health insurance. Specifically, he conducted research and explored private market options but was informed in each instance that he would need to wait until the next open enrollment period.
21. The Appellant also testified that he was unfamiliar with the individual mandate.
22. Consequently, he believed that his opportunity to obtain health insurance for 2023 had passed and that he would need to wait until the 2023 open enrollment period to enroll. (Appellant's Testimony).
23. The Appellant has been assessed a penalty for not having health insurance in 2023 for 7 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

G.L c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain insurance coverage “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. The Appellant was unaware of the individual mandate, according to his testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, 466 n.14 (2013).

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 2 month(s) in 2023. He has been assessed a tax

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penalty for 7 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, as a self-employed individual, was not provided with health insurance. The Appellant remained self-employed for the entirety of 2023 without any disruptions to his work. (Appellant's Testimony). The Appellant was not terminated, as he was not employed by an outside employer.

For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable. Because the appellant was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

The Appellant's eligibility for subsidized health insurance through the Massachusetts Health Connector was evaluated based on two key factors: employer-sponsored insurance status and income level.

Regarding employer-sponsored coverage, the Appellant's self-employed status means he was not offered employer-sponsored insurance. Therefore, the Affordable Care Act's restrictions on ConnectorCare eligibility for those with access to affordable job-based insurance (956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B)) do not apply in this case.

The Appellant's income level is the determining factor for eligibility. For ConnectorCare plans with state subsidies, eligibility is limited to those with incomes at or below 300% of the Federal Poverty Level (FPL). For Advance Premium Tax Credits, eligibility extends to those with incomes between 100% and 400% of the FPL (45 CFR 155.305(f)(1)(i)).

In 2023, the Appellant's income was 458.54% of the federal poverty level, exceeding both thresholds. This places his income above the maximum limit for both ConnectorCare plans and Advance Premium Tax Credits (400% FPL), making him ineligible for either form of assistance through the Health Connector.

Availability of Private Insurance

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Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$62,315.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$415.43 per month; according to Table 4, Appellant, who was 29 years old in 2023, lived in Suffolk County and filed his 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 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 (\$5,192.92 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$415.43 per month), the Appellant could have afforded private health insurance with a premium of \$312.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08(1).

The Appellant did not argue, nor did he attempt to argue, that he was unable to afford health insurance. Instead, he testified that his inability to secure health insurance was due to missing the open enrollment period and not qualifying for a special enrollment period.

Appellant's Efforts to Obtain Health Insurance

The Appellant testified that following the lapse of his COBRA coverage due to non-payment in 2022, he attempted to obtain health insurance through the Health Connector in spring 2023, outside the designated open enrollment period. His application was denied because he failed to meet qualifying life event criteria. To support his testimony, he submitted Exhibit 4, comprising two pages from the Health Connector website, which documented that his household was ineligible for a special enrollment period. (Appellant's Testimony).

When questioned during the hearing about whether he received the Health Connector's denial correspondence via first-class mail, the Appellant stated he was uncertain and could not specifically recall such receipt. He similarly testified to having

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no recollection of receiving information about the Office of Patient Protection from the Health Connector. (Appellant's Testimony). The hearing officer noted that standard Health Connector correspondence for special enrollment denials customarily includes instructions directing denied applicants to contact the Office of Patient Protection regarding waiver requests, which could permit health insurance enrollment outside the open enrollment period.

Despite testifying that he conducted research and investigated private market options following the special enrollment period denial, the Appellant did not pursue a waiver through the Office of Patient Protection. The Health Connector's webpage explicitly states that individuals denied special enrollment may apply at any time with an Office of Patient Protection waiver (<https://www.mahealthconnector.org/get-started/special-enrollment-period>).

Based on the evidence and testimony presented, I find that the Appellant failed to comply with the Health Connector's procedural instructions. While the Appellant testified to possible non-receipt of Office of Patient Protection guidance, the preponderance of evidence suggests he received this standard correspondence. The Appellant's subsequent research efforts, while documented, omitted this crucial procedural step. Therefore, I conclude that the Appellant failed to exercise sufficient due diligence in obtaining 2023 health insurance by neglecting to pursue an Office of Patient Protection waiver.

Conclusion

The Appellant has failed to demonstrate that purchasing health insurance would have imposed a serious financial hardship. Although the Appellant provided testimony regarding his financial circumstances, the evidence establishes that affordable insurance options were available through the private market. Moreover, the Appellant's failure to pursue an Office of Patient Protection waiver, as prescribed in the Health Connector's guidance, demonstrates inadequate efforts to obtain coverage. Accordingly, the Appellant's 7-month penalty is upheld.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

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 2023 Tax Year Penalty

Hearing Date: December 12, 2024

Decision Date: December 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 12, 2024. The procedures to be followed during the hearing were reviewed with Appellant. She was sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

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

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Exhibit 3	Correspondence from the Appellant.	1 page
Exhibit 4	Online printouts relating to airline travel	3 pages
Exhibit 5	Online printouts relating to Airbnb stays between May and August 1 of 2023	15 pages
Exhibit 6:	Bank statements from Banca Intesa, Dated June of 2023 (Language Unknown)	8 pages

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 39 years old in the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Middlesex County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$91,107.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 670% of the Federal Poverty level and based on her income, if all other conditions were met, she would be INELIGIBLE based on her income for ConnectorCare.
4. During the first half of 2023, the Appellant served as a Program Director and Professor at a university, holding a full-time position from January through May (per Appellant's Testimony).
5. According to the Appellant's testimony, she subsequently faced periods of intermittent unemployment throughout 2023, with her employment spanning January through May.
6. The Appellant further attested that when her employer made health insurance coverage available in 2023, she was unable to recall the specific monthly premium amount during her testimony.
7. The Appellant does currently have Health Insurance. (Appellant's Testimony).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

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9. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$91,107.00 was deemed able to pay \$607.38 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 39 and living in Middlesex County, could have purchased private insurance for \$335.00 per month.
10. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
11. Appellant's statement of grounds for appeal was on the basis of:
 - a. Other. During 2023 other circumstances, such as: applying the affordability tables and schedule HC to you, is an equitable (for example because of family size); that you were unable to obtain government subsidize insurance, even though your income, qualified you; or you didn't reside in Massachusetts during your period of uninsurance.(Testimony of Appellant, Exhibit 2).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
13. Appellant did not fall more than thirty days behind in rent payments in 2023. Appellant did not receive any shut-off notices for basic utilities. There was no evidence or indication of this during the Appellant's testimony. (Testimony of Appellant)
14. The appellant testified that she was laid off from her job in May 2023.
15. She stated that following her job loss, she attempted to contact the Massachusetts Health Connector, though throughout her testimony, she frequently referred to it as MassHealth¹. (Appellant's Testimony).
16. The appellant explained that her initial attempt to update her information occurred through the Health Connector's online web application. However, upon logging in, she discovered several inaccuracies, including misinformation regarding her name and marital status. (Appellant's Testimony).
17. The appellant testified that she had become divorced in March 2023 and had the necessary information to update her income due to the job loss, her name,

¹ The Massachusetts Health Connector and MassHealth are distinct entities. The Health Connector is the state's health insurance marketplace where individuals can purchase private insurance plans, while MassHealth is Massachusetts' Medicaid program providing public health insurance to eligible low-income residents. The interchangeable use of these terms in testimony suggests potential confusion about which program the Appellant actually attempted to contact.

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and her marital status. Despite her efforts, she was unable to make these updates online. (Appellant's Testimony).

18. She then contacted the Health Connector's customer support center and testified that she spoke with a customer service representative for over an hour. (Appellant's Testimony).
19. According to the appellant's testimony and correspondence, marked as Exhibit 3, the representative informed her that they were unable to assist her due to what the appellant described as a "glitch."
20. The appellant further testified that the customer service representative advised her to visit the Health Connector's office in person to resolve the issue. She stated that at the time of this request, she was out of the country. (Appellant's Testimony). However, no evidence beyond the Appellant's statement substantiates this claim. Neither the Appellant nor the Health Connector provided documentation to corroborate any issue necessitating an in-person visit to a Health Connector center.
21. The appellant's testimony and correspondence, also detailed in Exhibit 3, indicated that from late May 2023 through November 2023, she primarily resided in the Balkans. She explained that she moved between Airbnbs and her parents' studio apartment during this period. (Appellant's Testimony).
22. The appellant testified that her decision to stay in the Balkans was influenced by her need for medical assistance, which she believed would be more economical to obtain there than in Massachusetts.
23. The appellant did not provide a lease, utility bill, or other documentation to substantiate a permanent change in her residency.
24. The Appellant has been assessed a penalty for not having health insurance in 2023 for 4 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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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.

The appellant had health insurance for 5 month(s) in 2023. She has been assessed a tax penalty for 4 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

Because the appellant was unemployed during the tax penalty period she would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance in light of their lack of Employer-Sponsored Insurance.

ConnectorCare Eligibility

To be considered for ConnectorCare, which provides state subsidies and tax credits, individuals cannot be covered by affordable job-based insurance that meets the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer-sponsored insurance that is deemed affordable and meets minimum creditable coverage disqualifies an individual from receiving assistance through the Health Connector to reduce health plan costs. See 26 CFR § 1.36B-2(c)(3).

In Massachusetts, eligibility for ConnectorCare requires an income at or below 300% of the Federal Poverty Level (FPL). For the 2023 tax year, the Appellant’s income, at 670% of the FPL, far exceeds the eligibility threshold for ConnectorCare. Even if all other conditions, such as lack of affordable job-based insurance or enrollment timing, were met, the Appellant would still be ineligible for ConnectorCare based solely on her income level.

For individuals earning between 300% and 400% of the FPL, federal tax credits may be available to reduce health plan costs. However, because the Appellant’s income exceeds 400% of the FPL, they are also ineligible for such credits. Based on these

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rules, the Appellant does not qualify for ConnectorCare or related subsidies, irrespective of any other factors.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$91,107.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$607.38 per month; according to Table 4, Appellant, who was 39 years old in 2023, lived in Middlesex County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$335.00 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 (\$7,592.25 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$607.38 per month), the Appellant could have afforded private health insurance with a premium of \$335.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable health insurance coverage meeting minimum creditable coverage standards was available to the Appellant through the private market during the period for which a tax penalty was assessed, the determinative issue is whether the Appellant experienced a financial hardship under 956 CMR 6.08(1). The Appellant neither presented evidence of nor argued financial hardship as grounds for this appeal.

Questions of Residency and Obligation to Obtain Health Insurance

The Appellant provided testimony concerning her Massachusetts residency status during the 2023 tax year, with particular emphasis on the following circumstances:

The Appellant testified that her employment terminated in May 2023, after which she attempted to update her information and apply for coverage through the Massachusetts Health Connector. According to her testimony, she initially tried to make these updates through the Health Connector's online portal but encountered data inaccuracies, including incorrect information regarding her name and marital status.

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The Appellant testified that despite having the requisite documentation to update her information following her March 2023 divorce, including changes to her income, name, and marital status, she was unable to complete these modifications through the online system. Upon contacting the Health Connector's customer service center, the Appellant engaged in an hour-long conversation with a representative who, according to both her testimony and correspondence entered as Exhibit 3, was unable to assist due to what was characterized as a technical malfunction. The representative reportedly advised the Appellant to resolve the matter in person at the Health Connector's office, though the Appellant was outside the country at the time of this recommendation.

The Appellant testified that from late May 2023 through November 2023, she resided primarily in the Balkans, alternating between temporary Airbnb accommodations and her parents' studio apartment. According to her testimony, this relocation was motivated by the comparative affordability of medical care in the Balkans relative to Massachusetts. However, the Appellant did not submit documentation such as a lease, utility bills, or other evidence to establish a permanent change of residence.

Massachusetts General Laws (M.G.L.) Chapter 62, Section 1 defines a resident for tax purposes as either:

1. A natural person domiciled in Massachusetts, or
2. 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.

A domicile constitutes an individual's true, fixed, and permanent home, which persists until the establishment of a new domicile elsewhere. The establishment of a new domicile requires clear evidence demonstrating both the intent to abandon the previous domicile and the adoption of a new one. The testimony and evidence presented in this matter do not demonstrate that the Appellant effectuated a permanent change in residency. Although she testified to temporary residence in the Balkans, the submitted documentation fails to substantiate a permanent change in domicile.

The Appellant submitted Airbnb statements documenting travel outside Massachusetts during the following periods: May 13–14, 2023; June 3–5, 2023; June 13–27, 2023; and June 30–August 1, 2023 (See Exhibits 4, 5, and 6). These statements evidence temporary accommodations but fail to establish the requisite intent or permanence for a change in domicile. The utilization of short-term Airbnb accommodations, particularly absent supplementary documentation such as a lease, utility bills, or formal residency declarations, indicates these were temporary sojourns rather than relocation. The transient nature of Airbnb stays is inherently inconsistent

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with the establishment of a new domicile.

While the Appellant provided air travel documentation and bank statements, the air travel documents are in a foreign language and thus cannot be relied upon as substantiation. The bank statements, though also in a foreign language, appear to reflect transactions during 2023 but provide no additional context supporting abandonment of Massachusetts domicile.

The absence of evidence demonstrating severance of Massachusetts ties further supports the conclusion that the Appellant's domicile remained in the Commonwealth. No evidence was presented indicating relinquishment of Massachusetts domicile through actions such as cancellation of voter registration, surrender of a Massachusetts driver's license, or transfer of tax obligations to another jurisdiction.

Moreover, based on the dates provided in the submitted documentation, the Appellant's periods outside Massachusetts do not preclude her presence within the state for the majority of the taxable year. Her testimony and the presented records indicate she more likely than not spent in excess of 183 days in Massachusetts during 2023, a critical factor in determining residency under Massachusetts General Laws Chapter 62, Section 1. The evidence thus supports the conclusion of maintained Commonwealth residency.

Accordingly, based on the testimony and available evidence, I find the Appellant neither established a new domicile outside Massachusetts nor abandoned her existing domicile. Her maintained ties to Massachusetts, coupled with her physical presence in the state for the majority of the taxable year, further establish her status as a Massachusetts resident during the 2023 tax year.

The Appellant's election to seek medical care abroad does not obviate her obligation to maintain health insurance under Massachusetts law. While technical issues may have impeded access to Health Connector insurance options, private market insurance remained both viable and affordable. The Appellant's temporary foreign residence did not relieve her responsibility to comply with Commonwealth health insurance requirements.

Appellant's Interactions with the Health Connector

The Appellant's testimony regarding a technical malfunction in the Health Connector's system that necessitated her physical presence at their offices to resolve application issues lacks credibility. During these proceedings, the Appellant made multiple references to purported evidence, including recordings of communications with Health Connector representatives, yet failed to produce such documentation. The burden of presenting evidence rests with the Appellant, not the hearing officer. Moreover, the Health Connector maintains multiple channels for document submission and issue

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resolution, including its online portal, facsimile transmission, and postal mail, which contradicts the assertion that physical presence was mandatory.

Furthermore, the Appellant's international travel and subsequent foreign residence did not preclude access to health insurance coverage. Notwithstanding any alleged difficulties with the Health Connector, private market coverage remained accessible. According to Health Connector data, private insurance was available at approximately \$335 per month. Given that the Appellant's income substantially exceeded the eligibility threshold for subsidized ConnectorCare plans, this premium amount would have been within reasonable affordability parameters.

The contention that the Appellant's inability to secure health insurance coverage resulted solely from Health Connector system limitations is without merit. The Appellant's income level rendered her ineligible for subsidized coverage through the ConnectorCare program, while affordable private insurance options remained available. Furthermore, as a Massachusetts resident, the Appellant possessed knowledge of her obligations under the state's individual mandate law. Her failure to secure coverage, despite available alternatives, indicates that the responsibility rests with the Appellant rather than the Health Connector.

Accordingly, I find the Appellant's assertion regarding the Health Connector's alleged technical malfunction as the primary impediment to obtaining health insurance during the relevant period to be without merit.

Conclusion

Based on the Appellant's testimony and evidence, I find that her temporary stay in the Balkans did not change her permanent residence. The Appellant remained a Massachusetts resident during 2023 and was required to obtain health insurance through either the Health Connector or private insurance companies. The appeal is denied.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

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 the beginning of 2023. Appellant filed her 2023 Massachusetts tax return as Single. The Appellant has no dependents (Exhibit 1).
2. Appellant lived in Plymouth County, MA in 2023 (Exhibit 1).
3. Appellant's Federal Adjusted Gross Income for 2023 was \$56,174.00 (Exhibit 1, Appellant's Testimony). Appellant's Income was 413% 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 2023, the Appellant was employed full-time as a General Manager at a restaurant from January through April. (Appellant's Testimony). Subsequently, she began working as a Manager at a sign shop from April through December. (Appellant's Testimony).
5. The Appellant maintained continuous employment throughout 2023 without any interruptions. However, her employers did not offer health insurance coverage during this period.
6. The Appellant does not currently have Health Insurance. (Appellant's Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, The Appellant has no dependents, with an adjusted gross income of \$56,174.00 was deemed able to pay \$374.49 per month for health insurance, or 8.00% of her income. According to Table 4, Appellant, age 26 and living in Plymouth County, could have purchased private insurance for \$312.00 per month.
9. Private insurance was AFFORDABLE for the appellant in 2023 (Schedule HC for 2023).
10. In 2023, Appellant had the following monthly expenses for basic necessities¹:

¹The monthly expenses for basic necessities, as cited in this document, were derived from the Appellant's Testimony. To

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<u>Rent or Mortgage</u>	\$1,300.00	<u>Car Insurance</u>	\$172.00	<u>Medical/Dental</u>	\$0.00
<u>Electricity</u>	\$25.00	<u>Gas (Car)</u>	\$176.00	<u>Car</u>	\$266.00
<u>Cable/Internet</u>	\$30.00	<u>Food</u>	\$440.00	<u>Renter's Insurance</u>	\$16.00
<u>Heat</u>	\$30.00	<u>Cell Phone</u>	\$110.00	<u>Household & Toiletries</u>	\$100.00
<u>Clothing</u>	\$25.00				
				<u>Total:</u>	\$2,690.00

11. Upon examining the appellant's testimony, it was ascertained that her gross monthly income was \$4,681.17. Her necessary expenses were determined to be \$2,690.00 per month. After accounting for an approximation of federal and state taxes, this leaves a difference of \$1,081.54 in her monthly financial situation when considering filing status, Adjusted Gross income and the number of Dependents in the 2023 tax year.
12. Appellant's statement of grounds for appeal was on the basis of:
 - a. During 2023, 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).
13. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2023 (Testimony of Appellant).
14. Appellant did not fall more than thirty days behind in rent payments in 2023.

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

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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 in 2023, she was unable to afford health care coverage. (Appellant's Testimony).
16. She began the year employed as a general manager at a restaurant, under the belief that she would soon become eligible for employer-sponsored health insurance. However, she later discovered that her employer would not provide her with Employer-Sponsored Insurance coverage.
17. In response, the Appellant sought new employment and began working as a manager at a sign store in April 2023, continuing through the end of the year. This new position also did not offer health insurance.
18. During the hearing, the Appellant stated she was unaware of the legal requirement to maintain health insurance coverage.
19. She made an effort to explore private health insurance options but found the estimated cost to be approximately \$260 per month. (Appellant's Testimony). She testified that this estimate came from her outreach to the Health Connector.
20. The Appellant explained that she was unable to afford the monthly premium due to a significant increase in her living expenses after moving into a new apartment, where her rent more than doubled. (Appellant's Testimony). She testified that purchasing health insurance at the estimated cost would have required her to forego essential needs, such as food, shelter, and clothing.
21. The Appellant is appealing the decision on the grounds that the financial burden of obtaining health insurance would have placed her in a position of severe economic hardship.
22. The Appellant has been assessed a penalty for not having health insurance in 2023 for 12 months.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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mandate, according to her testimony. Ignorance of the law is no excuse however. 'When statutes impose punishment out of considerations of public policy, lack of knowledge of the law or of the fact that the law has been violated does not exonerate the person who may have unwittingly violated the statute.' Franklin Office Park Realty Corp. v. Commissioner of Dep't of Env'tl. Protection, 466 Mass. 454, n.14 (2013).

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

The appellant had health insurance for 0 month(s) in 2023. 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. For the purposes of this Appeal, I will find Employer-Sponsored Insurance was unavailable. Because the appellant was not offered health insurance by their employer, they would not be blocked from applying for coverage via the Health Connector to obtain subsidized insurance.

ConnectorCare Eligibility

To be considered for ConnectorCare, with its state subsidies and tax credits, you can't be covered by affordable job-based insurance, as per the Affordable Care Act standards. See 956 CMR 12.05 and 45 CFR § 155.305(f)(1)(ii)(B). Only employer insurance that's affordable and meets minimum creditable coverage can disqualify you from getting assistance through the Health Connector to reduce your health plan cost. See 26 CFR § 1.36B-2(c)(3). Because the appellant was not offered Employer-Sponsored Insurance, she would not have been blocked for applying for Health Insurance via the Health Connector.

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In Massachusetts, you could get state help with ConnectorCare plans if your income is 300% of the FPL or less. For tax year 2023, the Appellant is ineligible for insurance through the ConnectorCare program, as their income is more than 400% of the Federal Poverty Limit.

If you make more than 300% but less than 400% of the FPL, you might get a tax credit to cut down your health plan costs. To get this Advance Premium Tax Credit, your expected income must be at least 100% but less than 400% of the FPL. (45 CFR 155.305 (f) (1) (i)). Based on these rules, The Appellant is not eligible for ConnectorCare as their income is more than 400% of the Federal Poverty Limit. In 2023, the Appellant's income was 413.35% of the federal poverty level.

Availability of Private Insurance

Private insurance was AFFORDABLE for the appellant on the open market during 2023. According to Tables 3 and 4 of the HC schedule for 2023, Appellant, with an adjusted gross income of \$56,174.00, was deemed to be able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$374.49 per month; according to Table 4, Appellant, who was 26 years old in 2023, lived in Plymouth County and filed her 2023 Massachusetts taxes as a Single with 0 dependents, would have had to pay \$312.00 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 (\$4,681.17 per month), tax filing status, place of residence, and the expected affordable amount the Appellant could pay per the 2023 Schedule HC Tables (\$374.49 per month), the Appellant could have afforded private health insurance with a premium of \$312.00 per month. (2023 Schedule HC Tables).

Other Government-Sponsored Healthcare Programs

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

Financial Hardship Analysis

Since affordable insurance was available to the Appellant through the private market, in 2023, 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 2023 they incurred basic monthly expenses of approximately \$2,690.00. With a monthly surplus of \$1,081.54 between income and expenses, and considering the lowest monthly

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premium for the Appellant's qualifying ConnectorCare plan, based on their income, is an amount that could not be determined from the provided information, it appears that affording a healthcare plan should be manageable for the Appellant.

Conclusion

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

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc. Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA2345

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: May 7, 2024

Decision Date: December 8, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on May 7, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on February 17, 2024 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2023
- Exhibit 3: Notice of Hearing sent to Appellant dated April 16, 2024 for May 7, 2024 hearing
- Exhibit 4: Appellant's Connector application print-out showing eligibility, but no Special Enrollment Period, 2023
- Exhibit 5: Appellant's 1099HC for 2023 and 1095A for 2023
- Exhibit 6: Appellant's lease, May, 2023
- Exhibit 7: Appellant's 2023 Federal and Massachusetts tax returns
- Exhibit 8: Appellant's bank statements, 2023
- Exhibit 9: Appellant's credit card bills, 2023
- Exhibit 10: Appellant's student loans bills, 2024
- Exhibit 11: Appellant's paystubs, 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single person with no dependents claimed, was 33 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Middlesex County in 2023. Appellant lived in one apartment until May, 2023. He then moved to another apartment. When Appellant moved, he had to borrow money from a friend to pay the security deposit and first and last month's rent (Testimony of Appellant, Exhibit 2).

3. Appellant had a Federal Adjusted Income of \$58,175 in 2023. He was paid by the hour. The appellant, a carpenter, earned much less in January and December of 2023 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all year at a small company (five employees in Massachusetts). The appellant had no sick days or vacation days, but he was offered health insurance. The monthly premium for the coverage was over \$400 a month. Appellant did not opt for the coverage (Testimony of Appellant).
5. Appellant had no health insurance from January through April. In May, he obtained insurance through the Connector. He canceled the coverage at the end of August because he did not have enough money to pay the premium. He had to pay back a loan and felt he did not have enough money to pay off the loan and pay the premiums. Appellant was uninsured from September through December (Testimony of Appellant, Exhibit 5).
6. Appellant has been assessed a tax credit penalty for two months, January and December, 2023. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$58,175 could afford to pay \$387 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Middlesex County, could have purchased insurance for \$326 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).
9. According to Table 2 of Schedule HC for 2023, Appellant, who earned more than \$40,770 per year (the income limit for an individual), would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, and Exhibit 2).
10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2023 (Testimony of Appellant).
11. Appellant did not receive any shut-off notices in 2023 (Testimony of Appellant).
12. Appellant fell more than thirty days behind in rent payments in January, 2023 (Testimony of Appellant).
13. The appellant had the following monthly expenses for basic necessities in 2023 from January through April: rent, including electricity, and heat-\$880; telephone-\$75; food-\$480; clothing-\$45; transportation-\$300. From May through December, after Appellant moved, the appellant had the following monthly expenses for basic necessities: rent-\$775, heat and electricity-\$100; transportation-\$400; clothing-\$45; telephone-\$75. Appellant spent \$125 for kitchen equipment for the apartment. He had \$2,700 in dental expenses; Appellant owed \$800 to the Internal Revenue Service, had over \$21,000 in student loans, and owed money to a friend for moving expenses. From May through August, the appellant paid about \$390 for the health insurance he had through the Connector. (Testimony of Appellant).
14. As of the date of this hearing, Appellant had health insurance through the Connector (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 2023 should be waived, either in whole or in part.

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

Appellant had health insurance which met the Commonwealth’s standards in 2023 from May through August. Appellant has been assessed a penalty for two months, January and December. The appellant has appealed the assessment. See Exhibits 1, 2, 5.

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

According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$58,175 could afford Middlesex County, could have purchased insurance for \$326 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2023 Tables 3 and 4; Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant’s annual Federal Adjusted Income was \$58,175, more than the income limit for one person (\$40,770). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2023. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered affordable health insurance through employment in 2023. The employer did offer coverage, but the premium cost was over \$400 a month. According to Table 3 of Schedule HC for 2023, Appellant could afford to pay only \$387 a month. See also the testimony of the appellant which I find to be credible.

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

Appellant’s income varied from month to month. Appellant earned the least in January and December, the two months for which he has been assessed a tax penalty. In January, 2023, he was unable to pay his rent, falling more

than 30 days behind in his payment. In the spring, Appellant had to move. He did not have the money to pay the security deposit and the rent for the first and last month of the lease. He had to borrow money from a friend, and he had to pay back the money after the move. In addition, in 2023, Appellant owed the Internal Revenue Service \$800 and incurred dental bills of \$2,700. See the appellant's testimony which I find to be credible.

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(a), and 6.08(3), the appellant had a financial hardship in 2023. Having a financial hardship makes health insurance unaffordable for the appellant. I also note that as of the date of this hearing, Appellant had health insurance through the Connector.

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

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23121

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2023 Tax Year Penal

Hearing Date: June 7, 2024

Decision Date: December 24, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 7, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 9, 2024 with Form 1098 for 2023, miscellaneous bills and partial list of expenses and income attached
- Exhibit 2: Appeal Case Information from Schedule HC 2023
- Exhibit 3: Notice of Hearing sent to Appellant dated May 14, 2024 for June 7, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single person with no dependents claimed, was 38 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2023. The appellant rented until she purchased a condo. Appellant moved to her condo on July 19, 2023 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$66,880 in 2023. Appellant was employed until July 24, 2023 when Appellant was laid off. The appellant earned \$47,857 while employed in 2024. After the appellant was laid off, Appellant applied for unemployment benefits which the appellant began to receive in August. The weekly benefits were \$900 gross and \$765 net. Appellant was unemployed the rest of 2023 (Testimony of Appellant, Exhibits 1 and 2).
4. Appellant had health insurance which met the Commonwealth's minimum creditable coverage standards from January through July, 2023 through employment. Appellant lost coverage when she was laid off (Testimony of Appellant, Exhibit 2).
5. Appellant had no health insurance from August through December, 2023 (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a tax credit penalty for two months, November and December, 2023. Appellant has appealed the assessment (Exhibits 1, 2, Testimony of Appellant).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

8. According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$66,880 could afford to pay \$445 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Essex County, could have purchased insurance for \$335 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2023, Appellant, who earned more than \$40,770 per year (the income limit for an individual), would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2023 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices in 2023 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent or mortgage payments in 2023 (Testimony of Appellant).

13. The appellant had the following monthly expenses for basic necessities in 2023: rent from January through July-\$1,800; mortgage the rest of the year-\$2,527; condo fee-\$195; electricity, and heat-\$200; telephone-\$35; internet-\$25; food-\$400; clothing-\$50; car insurance-\$120; gas-\$100; student loan repayment-\$38; credit card debt-minimum payment approximately \$300; repairs to condo-\$217. In addition, when the appellant moved to the condo, right before she lost her job, she spent about \$2,500 on furnishings (Testimony of Appellant).

14. As of the date of this hearing, Appellant was still unemployed. Appellant had obtained health insurance through the MassHealth (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 2023 should be waived, either in whole or in part.

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

age to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had health insurance which met the Commonwealth's standards in 2023 from January through July. Appellant has been assessed a penalty for two months, November and December since she was entitled to a three-month grace period after losing coverage. The appellant has appealed the assessment. See Exhibits 1, 2 and Massachusetts General Laws Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2023, the appellant with no dependents claimed with an adjusted gross income of \$66,880 could afford to pay \$445 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Essex County, could have purchased insurance for \$335 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2023 Tables 3 and 4; Exhibit 2.

Appellant was ineligible for enrollment in the ConnectorCare program. The appellant's annual Federal Adjusted Income was \$66,880, more than the income limit for one person (\$40,770). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2023. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered affordable health insurance through employment in November and December, 2023 since the appellant was unemployed. See the testimony of the appellant which I find to be credible and Exhibit 1 attachment showing unemployment benefits received.

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

During the months for which Appellant has been a tax penalty, November and December, the appellant was unemployed. She received unemployment compensation benefits of \$900 gross a week. Her net benefits was \$765. Her expenses for basic necessities, including paying off debt, came to approximately \$4,200 each month, significantly more than her gross monthly income, which came entirely from the unemployment benefits Appellant received. In both months, Appellant ran a sizable deficit. See Appellant's testimony which I find to be credible and Exhibit 1 attachments..

Based upon the facts summarized above, I determine that pursuant to 956 CMR 6.08(1)(e), the appellant had a financial hardship in 2023. The cost of purchasing health insurance would have caused her to experience a serious deprivation of basic necessities. Having a financial hardship makes health insurance unaffordable for the appellant.

I also note that as of the date of this hearing, Appellant had health insurance through MassHealth.

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

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23123

Appeal Decision: The penalty is waived in full.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: June 7, 2024, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on June 7, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal signed by Appellant on March 3, 2024

Exhibit 2: Appeal Case Information from Schedule HC 2023

Exhibit 3: Notice of Hearing sent to Appellant dated May 14, 2024 for June 7, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2023 Massachusetts tax return jointly as a married couple with no dependents claimed, were 36 and 33 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. One of the appellants moved to Massachusetts at the end of May, 2023. This appellant resided in Hampshire County for the rest of the year with her spouse, who was a Massachusetts resident all year. Appellants married in May, 2023 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$112,951 in 2023. The appellant who lived outside the Commonwealth worked for an agency helping a family. At that time, the appellant did not have a social security number. When the appellant moved to Massachusetts, she continued working for the Connecticut agency through August. After she left that job, the appellant was unemployed the rest of the year. She did not have an immigration status that allowed her to work. She did not have a Social Security number (Testimony of Appellant, Exhibit 2).
4. The other appellant worked all year in Massachusetts. He had insurance that met the Commonwealth's minimum creditable coverage standards through his job (Testimony of Appellant).

5. Appellant had no health insurance while she lived in Connecticut in 2023. She was also uninsured after she moved to Massachusetts and married. Appellant has been assessed a tax credit penalty for all of 2023. Appellant has appealed the assessment. As of the date of this hearing, Appellant had health insurance under her husband's coverage (Exhibits 1, 2, Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. According to Table 3 of Schedule HC for 2023, the appellants with no dependents claimed with an adjusted gross income of \$112,951 could afford to pay \$753 per month for health insurance. According to Table 4, Appellants 36 and 33 years old and living Hampshire County have purchased insurance for \$701 per month for a plan for a married couple. Insurance on the individual market was affordable for the appellants (Schedule HC for 2023, Tables 3 and 4, Exhibit 2).
8. According to Table 2 of Schedule HC for 2023, Appellants, who earned more than \$54,930 per year, the income limit for a household of two, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, and Exhibit 2).
9. In October, 2023, Appellants worked with an immigration attorney to help resolve Appellant's immigration status. They paid the attorney \$3,000 (Testimony of Appellant).
10. The appellants had the following monthly expenses for basic necessities in 2023 after they were married: rent-\$1,225; heat-\$260 on average; electricity-\$100; internet and telephone-\$255; food, household products and personal care items-\$500; clothing-\$45; car insurance-?; gas-\$130; car payments-\$450; other transportation costs-\$400 (Appellant did not have a license and had to use Uber); eyecare-\$1,172. In addition to these costs, the appellants sent \$250 a month to a relative who lived in their country of origin, spent \$1,600 on airfare to attend a grandparent's funeral and provided financial support to the minor son of one of the appellants (Testimony of Appellant).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the sudden responsibility for providing full care for an aging parent or other family member, or a natural or human-caused event which caused substantial personal damage in 2023 (Testimony of Appellant).
12. Appellants did not receive any shut-off notices for basic utilities in 2023 (Testimony of Appellant).
13. Appellants did not fall more than thirty days behind in rent or mortgage payments in 2023 (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 2023 should be waived, either in whole or in part.

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

M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant had no health insurance which met the Commonwealth's standards after the appellant moved to the Commonwealth at the end of May, 2023. Appellant has been assessed a penalty for all of 2023, but since the appellant moved to Massachusetts near the end of May, she should be assessed a penalty for only four months, September through December. The penalty for June through August is waived because the appellant is entitled to a three-month grace period after moving to Massachusetts. The appellant has appealed the assessment. See Exhibits 1, 2, and Massachusetts General Laws, Chapter 111M, Section 2.

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

According to Table 3 of Schedule HC for 2023, the appellants with no dependents claimed with an adjusted gross income of \$112,951 could afford to pay \$753 per month for health insurance. According to Table 4, Appellants 36 and 33 years old and living Hampshire County have purchased insurance for \$701 per month for a plan for a married couple. Insurance on the individual market was affordable for the appellants (Schedule HC for 2023, Tables 3 and 4, Exhibit 2).

Appellant was ineligible for enrollment in the ConnectorCare program. She and her spouse had an annual Federal Adjusted Income of \$112,951, more than the income limit for a tax household of two (\$54,930). See 956 CMR 12.00 et. seq., Exhibit 2, and Table 2 of Schedule HC 2023. There is no evidence in the record that Appellant was eligible for any other government sponsored program.

Appellant was not offered health insurance through employment in 2023. The appellant had a job in Connecticut which did not offer her health insurance. Appellant stopped working in September; she was unemployed for the rest of the year. See also the testimony of the appellant which I find to be credible.

Appellant did not have a social security number when she lived in Connecticut. She was unable to work in Massachusetts because of her immigration status. It is unclear from the record whether the appellant would have been eligible to purchase health insurance through the Connector because of her immigration status. If she were found to be ineligible, then appellant's penalty would be waived because she had no affordable insurance available to her. See Massachusetts General Laws, Chapter 111M, Section 2. But, even if there had been coverage available to her, her penalty should be waived because of financial issues raised by the appellant during her hearing. See 956 CMR 6.08(3) which allows for the consideration of such issues.

Even if Appellant had been eligible to purchase insurance through the Connector, her penalty should be waived. The appellant and her spouse had a Federal Adjusted Gross income of \$112,951. This amount included the appellant's earnings before she stopped work in August and before she married. From September through December, Appellant was unemployed. The couple's income during these months was lower than the rest of the year. The couple had to pay \$3,000 for legal fees for Appellant's immigration case, and they continued to provide support to the spouse's minor child, and to the appellant's parent who lived out of the United States. The spouse also had to fly to his grandparent's funeral which cost \$1,600. All of this was in addition to their expenses for basic necessities. Rent and utilities alone amounted to approximately \$2,000 a month. Transportation costs came to approximately \$1,000 a month.

Based upon the facts summarized above, I determine that the appellant's penalty is waived pursuant to 956 CMR 6.08(3).

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23358

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 9, 2024

Decision Date: December 20, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

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

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

- Exhibit 1: Statement of Grounds for Appeal 2023 signed and dated by Appellant on April 16, 2024 with letter and print-out showing unemployment benefits attached
- Exhibit 2: Appeal Case Information from Schedule HC 2023
- Exhibit 3: Notice of Hearing sent to Appellant dated August 2, 2024 for September 9, 2024 hearing
- Exhibit 4: Document showing flights out of country and back during 2023

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single individual with no dependents claimed, was 45 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2023 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$54,921 in 2023 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed from January through March, 2023. She had health insurance through her job. When she lost her job at the end of March, she also lost her health insurance coverage as of the end of April. Appellant started receiving unemployment compensation benefits in May; she continued to receive them until mid-June when she left the state for two months to visit her parent who was ill. When Appellant returned to the Commonwealth, she applied for MassHealth, but she was denied coverage. Appellant obtained a new job in mid-December. At her new job, Appellant enrolled in the offered health insurance, but she had to be on the job for 90 days before the plan became effective (Testimony of Appellant, Exhibit 1 attachment).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority

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

6. According to Table 3 of Schedule HC for 2023, the appellant, a single individual with an adjusted gross income of \$54,921, could afford to pay \$366 per month for health insurance. According to Table 4, Appellant, 45 years old and living in Norfolk County, could have purchased insurance for \$409 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).

7. According to Table 2 of Schedule HC for 2023, Appellant, who earned more than \$40,770 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, and Exhibit 2).

8. Appellant has been assessed a penalty for August through December, 2023. The appellant has appealed the assessment (Testimony of Appellant, Exhibits 1, 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part.

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

The appellant had health insurance in 2023 from January through April. Appellant is entitled to a three-month grace period after losing her health insurance. See Massachusetts General Laws Chapter 111M, Section 2. Appellant has been assessed a penalty for five months, August through December. Appellant has appealed the assessment. See Exhibits 1 and 2.

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

According to Table 3 of Schedule HC for 2023, the appellant who filed his taxes as a single person with an adjusted gross income of \$54,921 could afford to pay \$366 per month for health insurance. According to Table 4, Appellant, 45 years old and living in Norfolk County, could have purchased insurance for \$409 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2023, Tables 3 and 4, and Exhibit 2.

According to Table 2 of Schedule HC for 2023, Appellant who earned more than \$40,770 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2023, and Exhibit

2. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

Appellant was unemployed from the end of April through mid-December, 2023. When Appellant found a new job in December, she was offered health insurance, but the coverage was not effective until she had been at the job for 90 days. Health insurance through employment was unavailable to the appellant during the months of August through December. See the testimony of the appellant which I find to be credible.

The appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2023. See discussion above. Her penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance which meets the state's standards, the individual shall not be assessed a tax penalty.

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23454

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 18, 2024

Decision Date: December 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 18, 2024. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2023 signed and undated by Appellant with first page of Federal Tax return, 2023 attached

Exhibit 2: Appeal Case Information from Schedule HC 2023

Exhibit 3: Notice of Hearing sent to Appellant dated October 18, 2024 for November 18, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single individual with no dependents claimed, was 33 years old in 2023 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2023 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$48,234 in 2023 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed from January through June, 2023. She had health insurance through her job. Appellant left her job to start her own business. When she left her job, besides working on her own business, she took a part-time job. She was not offered health insurance through her part-time job (Testimony of Appellant, Exhibit 1).
5. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

6. According to Table 3 of Schedule HC for 2023, the appellant, a single individual with an adjusted gross income of \$48,234, could afford to pay \$305 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Suffolk County, could have purchased insurance for \$326 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).

7. According to Table 2 of Schedule HC for 2023, Appellant, who earned more than \$40,770 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, and Exhibit 2).

8. Appellant has been assessed a penalty for October through December, 2023. The appellant has appealed the assessment (Testimony of Appellant, Exhibits 1, 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part.

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

The appellant had health insurance in 2023 from January through June. Appellant is entitled to a three-month grace period after losing her health insurance. See Massachusetts General Laws Chapter 111M, Section 2. Appellant has been assessed a penalty for three months, October through December. Appellant has appealed the assessment. See Exhibits 1 and 2.

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

According to Table 3 of Schedule HC for 2023, the appellant who filed her taxes as a single person with an adjusted gross income of \$48,234 could afford to pay \$305 per month for health insurance. According to Table 4, Appellant, 33 years old and living in Suffolk County, could have purchased insurance for \$326 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2023, Tables 3 and 4, and Exhibit 2.

According to Table 2 of Schedule HC for 2023, Appellant who earned more than \$40,770 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2023 and Exhibit 2. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

From July through December, 2023, Appellant had a part-time job which did not offer health insurance as a benefit. She also was starting a business of her own and would have had to purchase her own coverage. See the testimony of the appellant which I find to be credible.

The appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2023. See discussion above. Her penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance which meets the state's standards, the individual shall not be assessed a tax penalty.

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23119

Appeal Decision: The penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: June 7, 2024

Decision Date: December 10, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on June 7, 2024. An interpreter of Haitian Creole was also present. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2023 signed and dated by Appellant on March 8, 2024

Exhibit 2: Appeal Case Information from Schedule HC 2023

Exhibit 3: Notice of Hearing sent to Appellant dated May 14, 2024 for June 7, 2024 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2023 Massachusetts tax return as a single individual with one dependent claimed, was 44 years old in 2023. The dependent was the appellant's child, age three, who did not reside with the appellant (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Worcester County in 2023 (Testimony of Appellant, Exhibit 2).
3. Appellants had a Federal Adjusted Income of \$43,059 in 2023 (Testimony of Appellant, Exhibit 2).
4. The appellant was employed all year as a truck loader. His employer did not offer health insurance to the appellant (Testimony of Appellant).
5. Appellant has been assessed a penalty for all of 2023. The appellant has appealed the assessment (Testimony of Appellant, Exhibits 2, 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. According to Table 3 of Schedule HC for 2022, the appellant, a single individual with an adjusted gross income of \$43,059, could afford to pay \$222 per month for health insurance. According to Table 4, Appellant, 44 years old and living in Worcester County, could have purchased insurance for \$358 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2023 Tables 3 and 4, Exhibit 2).

8. According to Table 2 of Schedule HC for 2023, Appellant, who earned more than \$40,770 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2023, and Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2023 should be waived, either in whole or in part.

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

The appellant had no health insurance in 2023. He has been assessed a penalty for the entire year. Appellant has appealed the assessment. See Exhibits 1 and 2.

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

According to Table 3 of Schedule HC for 2023, the appellant who filed his taxes as a single person with an adjusted gross income of \$43,059 could afford to pay \$222 per month for health insurance. According to Table 4, Appellant, 44 years old and living in Worcester County, could have purchased insurance for \$358 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2023, Tables 3 and 4, and Exhibit 2.

According to Table 2 of Schedule HC for 2023, Appellant who earned more than \$40,770 per year, would have been ineligible for the ConnectorCare program based upon income. See Table 2 of Schedule HC-2023, and Exhibit 2. See the testimony of Appellant which I find to be credible. There is no evidence in the record that Appellant was eligible for any other government-sponsored health insurance.

Appellant had the same job all year. He was not offered health insurance through employment. See the testimony of the appellant which I find to be credible.

The appellant had no access to affordable health insurance which met the Commonwealth's minimum creditable coverage standards in 2023. See discussion above. His penalty is waived since pursuant to Massachusetts General Laws Chapter 111M, Section 2, if an individual has no access to affordable health insurance which meets the state's standards, the individual shall not be assessed a tax penalty.

Appellant should note that any waiver granted here is for 2023 only and is based upon the specific facts I have found to be true and should not assume that the same determination will be made should Appellant be assessed a penalty in the future.

PENALTY ASSESSED

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 202.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-346

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: September 13, 2024

Decision Date: September 19, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on September 13, 2024. The procedures to be followed during the hearing were reviewed with the Appellant and her representative who were then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

Exhibit 1: Notice of Hearing dated August 2, 2024

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal Dated April 15, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-eight years old and is single with two dependents. She lived in Middlesex County, Massachusetts. Appellant worked as an office administrator.
2. Appellant lived in Ohio in 2023 near the East Palestine train derailment. Appellant moved to Massachusetts to keep her family safe in a friend's garage and then an apartment. Appellant had to leave all of her belongings behind because of contamination. Appellant's partner cannot work because of a disability, and she has a young child. Appellant was unaware of the mandatory health insurance requirement in Massachusetts.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$2,732.50, consisting of rent \$450.00, heat & light \$62.50, cell phone \$30.00, car gas \$120.00 food 1,500.00, clothing \$100.00 toiletries \$20.00, credit card \$350.00, moving expenses \$123.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 under "During 2023, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to you.". And should have appealed under "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities" I will hear Appellant's appeal under both grounds.
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant may have been eligible for subsidized health insurance, since Appellant's income of \$46,099.00 was less than \$69,090.00. The monthly premium for health insurance available on the private market in Middlesex County for a 37 year old single person with two dependents was \$851.00. The tables reflect that Appellant could afford \$188.23 This is

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant lived in Ohio in 2023 near the East Palestine train derailment. Appellant moved to Massachusetts to keep her family safe in a friend’s garage and then an apartment. Appellant had to leave all of her belongings behind because of contamination. Appellant’s partner cannot work because of a disability, and she has a young child. Appellant was unaware of the mandatory health insurance requirement in Massachusetts.

The Appellant did submit a Statement of Grounds for Appeal-2023 under “During 2023, you incurred a fire, flood, natural disaster or other unexpected natural or human-caused event causing substantial household or personal damage to you.”. And should have appealed under “During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities” I will hear Appellant’s appeal under both grounds.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2023, 150 percent of the FPL was \$34,545.00 for a single person with two dependents. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2023 income was more than 150 percent of the FPL, making her potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to her in 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$46,099.00 in 2023, and Appellant’s filing status was single with two dependents . EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$188.23 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at Table 3. Private insurance would have been available to her from the Premium Tables, at a cost of \$851.00 monthly for coverage. *Id.* at Table 4.

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

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

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-418

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 19, 2024

Decision Date: November 21, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 19, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted 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 23, 2024.

Exhibit 2: Appeal Case Information from Schedule HC- 2023.

Exhibit 3: Statement of Grounds for Appeal dated April 23, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 25 in November 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Barnstable County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$55,861 (Exhibit 2).
4. The Appellant did not have health insurance for any months in tax year 2023 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a twelve-month tax penalty for 2023. The Appellant filed an appeal of the assessment in April 2024 citing circumstances other than financial hardship as the basis for their appeal (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$55,861 could afford to pay \$372 per month for health insurance. In accordance with Table 4, the Appellant age 25, living in Barnstable County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was affordable for the Appellant in 2023.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$55,861 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant objects to being subject to a tax penalty because the Appellant alleges that their orthodox religion does not allow them to enroll in health insurance. When asked, the Appellant testified that the person who prepared their income tax return may not have checked the box in Line 8 of the Schedule HC-2023 to claim a Religious Exemption (Appellant Testimony).
10. The Appellant was advised that they should complete an amended tax return for tax year 2023 if they wish to claim a Religious Exemption.

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

The Appellant filed their 2023 income tax return as a single person with no dependents. The Appellant did not have health insurance coverage for any months in tax year 2023 and consequently a twelve-month penalty has been assessed. The Appellant filed an appeal in April 2024 and cited circumstances other than financial hardship as the basis for their appeal.

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

In accordance with Table 3 of Schedule HC for 2023 the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$55,861 could afford to pay \$372 per month for health insurance. According to Table 4, the Appellant, age 25, living in Barnstable County, could have purchased a private insurance plan for \$312 month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

It is unclear if the Appellant had access to employer sponsored health insurance. The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income of \$55,861 that was greater than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant did not offer any evidence or testimony regarding financial hardship. The Appellant argues that they should be exempt from the health insurance mandate due to their religion that prohibits them from enrolling in a health insurance plan. While M.G.L. C. 111M, sec. 3 allows an exemption on the basis of a sincere religious belief, this is not an appealable issue under the Health Connector regulations. The Appellant did not claim this exemption on their Schedule HC- 2023 and was advised that they should file an amended tax return if they wish to do so.

Since the Appellant has failed to demonstrate that purchasing health insurance would have caused the Appellant to experience significant financial hardship such that they could not meet their monthly living expenses in tax year 2023, the Appellant's twelve-month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-421

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 22, 2024

Decision Date: November 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 22, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 23, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC -2023.
- Exhibit 3: Statement of Grounds for Appeal dated May 1, 2024.
- Exhibit 4: Appellant's letter in support of the appeal.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 37 in October 2023, filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$34,293 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2023 and consequently has been assessed a twelve-month penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May 2024 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4

incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$34,293 could afford to pay \$139 per month for health insurance. In accordance with Table 4, the Appellant, age 37, living in Hampden County, could have purchased private insurance for \$351 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in tax year 2023.
8. The Appellant testified that they worked on a part time basis for the first part of tax year 2023. The Appellant said that they eventually worked full time and was told they would be able to enroll in health insurance. The Appellant said that they tried to get information but never found out what the cost would be or if it would be applied retroactively. The Appellant indicated they were later told they missed open enrollment (Appellant Testimony).
9. The Appellant was financially eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$34,293 was less than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant's monthly living expenses of \$3,512 included: rent-\$1,800; heat-\$275; electricity-\$200; telephone-\$170; car insurance-\$200; gasoline-\$217 and food-\$650. The Appellant said that they rented a house with the intention of being able to rent out rooms to help with expenses. The Appellant explained that people were in and out and for approximately six months they received contributions of \$800 and for the other six months about \$400. The Appellant said that they were responsible for all the bills even if rooms were not rented and that they could not afford a health insurance premium. I found the Appellant to be credible (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 tax return as a single person with no dependents claimed. The Appellant did not have health insurance for any months in tax year 2023 and has been assessed a twelve-month penalty. The Appellant appealed the penalty in May 2024 citing financial hardship as the basis for their appeal.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government sponsored program. If affordable insurance

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$34,293 could afford to pay \$139 per month for health insurance. According to Table 4, the Appellant, age 37, living in Hampden County, could have purchased a private insurance plan for \$351 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

It is unclear from the evidence and testimony in this record if and when the Appellant had access to affordable employer sponsored health insurance in tax year 2023. The Appellant was initially employed part time and was not eligible for insurance. The Appellant eventually became a full-time employee but testified credibly that they could not get the information they needed to determine if the employer's insurance was affordable for them. Eventually the Appellant was informed that they had missed open enrollment.

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

The Appellant testified that they rented a house with the intention of renting out a couple of rooms to help meet living expenses. The Appellant testified to monthly expenses of \$3,512 with monthly contributions of \$800 for six months and \$400 for six months. The Appellant explained that people were in and out and that they were financially eligible for paying all the bills. The Appellant indicated that it was difficult to meet these expenses with their limited income. Under these circumstances the Appellant has demonstrated that purchasing health insurance would have caused the Appellant significant financial hardship. The Appellant's twelve-month penalty is waived in full. 956 CMR 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-423

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

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 22, 2024

Decision Date: December 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 22, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 23, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC-2023.
- Exhibit 3: Statement of Grounds for Appeal signed on April 30, 2024.
- Exhibit 4: Appellant's letter in support of the Appeal, with attachments.
- Exhibit 5: Health Connector Record Open Form dated November 22, 2024.
- Exhibit 6: Health Connector additional documentation submitted on December 4, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 21 in December 2023, filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Bristol County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$55,199 (Exhibit 2).
4. According to the Appellant's Schedule HC-2023, the Appellant did not have health insurance for any months in tax year 2023 (Exhibit 2).
5. The Appellant has been assessed a twelve-month tax penalty for 2023. The Appellant filed an appeal of the assessment in April 2024 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$55,159 could afford to pay \$368 per month for health insurance. In accordance with Table 4, the Appellant, age 21, living in Bristol County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was affordable for the Appellants in 2023.
8. The Appellant was not eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$55,159 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant submitted their appeal and wrote that they did have health insurance for the period of January through April in tax year 2023 but lost coverage because they did not submit documentation of their residency. The Appellant said that they were not sure what they were supposed to submit. The Appellant stated that they did not contact Health Connector Customer Service when their insurance ended. The Appellant also said they did not attempt to obtain insurance on the private market because they did not know how. The Appellant did not allege financial hardship as a reason for their failure to have health insurance (Exhibits 3, 4 and Appellant Testimony).
10. The record was left open until December 6, 2024 to obtain additional information from Health Connector regarding the Appellant's eligibility and enrollment for tax year 2023 (Exhibit 5).
11. Health Connector submitted sixty six pages of information on December 4, 2024 (Exhibit 6).
12. The information submitted by Health Connector was forwarded to the Appellant and the record remained open until December 20, 2024 to allow the Appellant to submit a written response. The Appellant did not submit any additional information during the record open period (Exhibits 5, 6).
13. On December 19, 2022 the Appellant filed an application for health insurance for tax year 2023. The Appellant reported income equal to 22.08% of the federal poverty level The Appellant was determined eligible for ConnectorCare Plan 1 and the Appellant enrolled in a plan effective January 1, 2023 (Exhibit 6, pp. 9-24).
14. On December 19, 2023 Health Connector issued a Request for Information. The Appellant was asked to submit proof of Massachusetts residency. The notice contained detailed information regarding acceptable documents needed to verify residency (Exhibit 6, pp. 25-39).
15. On February 17, 2023 Health Connector issued a Documents Needed Reminder Notice advising the Appellant that their ConnectorCare would be terminated if they failed to submit proof of Massachusetts Residency by March 19, 2023. A detailed list of acceptable documents was included (Exhibit 6, pp.37-39).

16. On April 6, 2023 Health Connector issued a Termination Notice to be effective April 30, 2023 because the Appellant failed to submit required documentation (Exhibit 6, pp.45-55).
17. The Appellant did not contact Health Connector Customer Service or enroll in any other health insurance plan after their ConnectorCare was terminated April 30, 2023 (Appellant Testimony).
18. The Appellant's monthly living expenses of \$2,755 included: rent and utilities-\$1,400; food-\$867; telephone-\$65; car insurance-\$250; and gasoline \$173. The Appellant did not fall behind in their payments and did not receive any eviction notices or utility shut off notices in tax year 2023 (Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 income tax return as a single person with no dependents. According to the Appellant's Schedule HC- 2023 the Appellant did not have health insurance for any months of tax year 2023 and consequently was assessed a twelve-month penalty. The Appellant filed an appeal in April 2024 and noted that they did have health insurance for several months. The Appellant did not allege financial hardship as the basis for the appeal.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$55,159 could afford to pay \$312 per month for health insurance. According to Table 4, the Appellant, age 21, living in Bristol County, could have purchased a private insurance plan for \$312 month. See Schedule HC for 2023. Private insurance was affordable for the Appellant in tax year 2023.

The evidence obtained during the record open period following the November 22, 2024 Hearing verifies that the Appellant received ConnectorCare for the period of January through April in tax year 2023. Given the three month grace period allowed, the Appellant is not subject to a tax penalty for the period of January 1, 2023 through July 31, 2023. The Appellant is subject to a tax penalty for the period of August through December in tax year 2023. It must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1) for this five month period.

The Appellant did not allege financial hardship on their Statement of Grounds for Appeal. Massachusetts residents are required to obtain and maintain creditable coverage so long as it is deemed affordable. See Massachusetts General Laws, Chapter 111M, Section 2. The Appellant obtained coverage but failed to maintain the coverage by submitting the documentation needed to maintain eligibility. The Appellant did not report a change in income from their December 19, 2022 Application as required. There is nothing in this administrative record to indicate that the Appellant experienced significant financial hardship as the reason for failing to maintain their health insurance coverage. 956 CMR 6.08. The Appellant's five-month penalty for the period of August through December is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

Number of Months Appealed: ____12____ Number of Months Assessed: __5____

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL DECISION: PA23-424

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 22, 2024

Decision Date: November 26, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 22, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated October 23, 2024
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: The Statement of Grounds for Appeal signed by the Appellant on March 30, 2024.
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 28 in August 2023, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Middlesex County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$110,873 (Exhibit 2).
4. The Appellant had health insurance that met Massachusetts minimum creditable coverage requirements (MCC) for the period of January through April in tax year 2023. The Appellant also had insurance coverage for the period of May through December in tax year 2023, but the insurance did not meet MCC requirements (Exhibits 2, 3, 4 and Appellant Testimony).
5. The Appellant has been assessed a five-month tax penalty for 2023. The Appellant filed an appeal of the assessment in March 2024 (Exhibits 2, 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$110,873 could afford to pay \$739 per month for health insurance. In accordance with Table 4, the Appellant age 28, living in Middlesex County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was affordable for the Appellant in 2023.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$110,873 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant testified that they moved to Massachusetts from another state in tax year 2022 and health insurance through their employer for the first four months of tax year 2023. The Appellant explained that they moved to a different area in Massachusetts for a new job effective May 2023 and no longer had access to employer sponsored health insurance. The Appellant said that they used Google to find a new insurance plan and purchased a plan with a monthly premium of \$320.32 believing that this would be adequate coverage. The Appellant said that they were informed when they did their taxes that the plan did not meet MCC requirements but the Appellant indicated being from out of state they had no idea what the requirements were. The plan did not offer OBGYN services and the Appellant said that they had to pay approximately \$2,000 for treatment. The Appellant said that the insurance met their other health care needs. The Appellant indicated that they were told about the Health Connector after discovering this problem and enrolled in an insurance plan for tax year 2024 that did meet MCC requirements. The Appellant's credible testimony is supported by documentation submitted with the Appellant's appeal request (Exhibit 4 and Appellant Testimony).
10. The Appellant's 2022 monthly living expenses of \$4,426 included: rent-\$1,325; electricity-\$200; internet-\$50; car payment-\$770; car insurance \$200; gasoline-\$400 and food-\$758; student loan payments-\$173 and credit card debt-\$550. The Appellant testified that they had incurred significant credit card debt during their college years and they are trying to get out from under the debt. In addition, the Appellant had the uncovered medical expenses of \$2,000 that they had to pay off (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.

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).

The Appellant had employer sponsored health insurance that met MCC standards for the first four months of tax year 2023. The Appellant moved and switched jobs effective May 2023. The Appellant no longer had access to employer sponsored health insurance for the period of May through December in tax year 2023. The Appellant made a good faith effort to purchase health insurance but the plan the Appellant purchased did not meet Massachusetts MCC standards. The Appellant has consequently been assessed a five-month tax penalty. The Appellant has appealed the assessment.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$110,873 could afford to pay \$739 per month for health insurance. According to Table 4, the Appellant, age 28, living in Middlesex County, could have purchased a private insurance plan for \$312 month. See Schedule HC for 2022. Private insurance was affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon the household's income of \$110,873 that was greater than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria. Since affordable insurance was available to the Appellant in 2023, it must be determined whether the Appellant experienced a financial hardship pursuant to 956 CMR 6.08 (1).

The Appellant submitted documentation verifying that they enrolled in a health insurance plan with a monthly premium of \$320.32. The Appellant testified credibly that the policy met most of their needs but did not cover OBGYN services. The Appellant incurred a \$2,000 bill for medical expenses. The health insurance purchased by the Appellant did offer some benefits, but the coverage limits placed on some services did not meet MCC requirements.

The Appellant was deemed able to pay \$739 per month for health insurance in accordance with Table 3 for Schedule HC 2023. The Appellant paid \$320 monthly for the health coverage that did not meet MCC requirements and their uncovered medical expenses were equal to \$167 per month. In accordance with Table 4 for Schedule HC 2023, the cost of private insurance was \$312 monthly. The Appellant's total medical expenses were \$487 monthly. Purchasing private insurance would have resulted in a payment of \$799, that would have been more than the \$739 deemed affordable under Table 3 for Schedule HC 2023. Given the Appellant's substantial living expenses, purchasing additional health insurance on the private market would have caused the Appellant to experience a significant financial hardship. The Appellant's five-month penalty is waived. See 956 CMR 6.08(1)(e),(3).

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

PENALTY ASSESSED

Number of Months Appealed: ____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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-445

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: November 22, 2024
Decision Date: December 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 22, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Statement of Grounds and supporting documents, dated April 30, 2024
- Exhibit 3: Correspondence from Health Connector, dated October 18, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 33 years old in 2023 and resided in Essex County, MA (Exhibit 1).
2. Appellant filed a Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
3. Appellant had an Adjusted Gross Income for 2023 of \$56,100 (Exhibit 1).
4. Appellant struggled financially in 2023 (Testimony of Appellant).
5. Appellant had the following monthly expenses: Rent \$1,265; Utilities \$550; vehicle payment \$155; vehicle insurance \$90; Food \$800; Gasoline \$200; Internet and phone \$165; clothing \$100; Past due surgery payment \$75. The total of the monthly bills was \$3,345.
6. Appellant fell behind on utility payments and received a termination notice (Exhibit 2 and Testimony of Appellant).
7. Employer sponsored health insurance was not available through Appellant's job (Testimony of Appellant).
8. Appellant applied for health insurance through the Health Connector and health insurance would have been available at a cost of \$300 to \$350 per month (Testimony of Appellant).
9. Appellant did not enroll in the insurance through the Health Connector because the cost would have made Appellant unable to afford Appellant's basic expenses (Testimony of Appellant).

10. Appellant was not covered by health insurance for twelve months in 2023 (Exhibit 1 and Testimony of Appellant).
11. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
12. According to Table 3 of Schedule HC for 2023 a person filing as single with no dependents claimed with an adjusted gross income of \$56,100 could afford to pay \$374 per month for private insurance. According to Table 4, Appellant, who was 33 years old and lived in Essex County could have purchased private insurance for a cost of \$326 per month.
13. Private insurance was considered affordable for Appellant in 2023 (Schedule HC for 2023).
14. Appellant, earning more than \$40,700 would not have been income eligible for government subsidized health insurance (Schedule HC for 2023).
15. Appellant did not have health insurance for twelve months of 2023 (Exhibit 1 and Testimony of Appellant).
16. Appellant has been assessed a penalty for twelve months for 2023 (Exhibit 1).
17. Appellant filed a hardship Appeal on April 30, 2023 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08.

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

Appellant was considered able to afford private health insurance, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship.

Appellant struggled financially in 2023. Appellant fell behind on utility payments and received shut-off notices. Considering Appellant’s circumstances in 2023, I find that for 2023, Appellant could not afford to purchase health insurance that met minimum creditable coverage standards. See Schedule HC for 2023, 956 CMR 6.08 (1)(b) and (1)(e), Exhibits 1, 2, and Testimony of Appellant, which I find to be credible.

I find the penalty assessed against Appellant for 2023 should be waived in its entirety.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23448

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2023 Tax Year Penalty
Hearing Date: November 22, 2024
Decision Date: December 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on November 22, 2024. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Schedule HC for Healthcare from DOR
- Exhibit 2: Notice of Appeal and supporting documents, dated April 23, 2024
- Exhibit 3: Correspondence from Health Connector, dated October 18, 2024

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 24 years old in 2023 (Exhibit 1).
2. Appellant lived in Suffolk County Massachusetts in 2023 (Exhibit 1 and Testimony of Appellant)
3. Appellant filed a part year Massachusetts 2023 tax return as single with no dependents claimed (Exhibit 1).
4. Appellant had an Adjusted Gross Income for 2023 of \$58,189.00 (Exhibit 1).
5. Appellant was insured through a parent's employer sponsored health insurance in February and March 2023 (Exhibit 1 and Testimony of Appellant).
6. Appellant's parent lost employment and employer sponsored health insurance in April 2023 (Testimony of Appellant).
7. Appellant lost insurance coverage through the parent beginning in April 2023 (Exhibit 1 and Testimony of Appellant).
8. Beginning in April 2023, Appellant tried to get onto Appellant's employer sponsored insurance but was unable to get coverage until October 2023 (Testimony of Appellant).
9. Appellant was enrolled in Appellant's employer sponsored insurance from October through December 2023 (Exhibit 1 and Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability

and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

11. According to Table 3 of Schedule HC for 2023 a person filing as single with no dependents, with an adjusted gross income of \$58,189 could afford to pay \$388 per month for private insurance. According to Table 4, Appellant, who was 24 years old with no dependents and lived in Suffolk County could have purchased private insurance for a cost of \$312 per month.
12. Private insurance was considered affordable for Appellant in 2023 (Schedule HC for 2023).
13. Appellant, earning more than \$40,770 would not have been income eligible for government subsidized health insurance (Schedule HC for 2023).
14. Appellant did not have health insurance during April through September 2023 (Exhibit 1 and Testimony of Appellant).
15. Appellant has been assessed a penalty for two months for 2023 (Exhibit 1).
16. Appellant filed a hardship Appeal on April 23, 2024 (Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

G.L.c. 111M, § 2, also called the “individual mandate,” requires every adult resident of Massachusetts to obtain health insurance that meets minimum creditable coverage standards “[s]o long as it is deemed affordable” under the schedule set by the board of directors for the Commonwealth Health Insurance Connector Authority. Residents who do not obtain insurance or who do not obtain insurance that meets the minimum creditable coverage standard are subject to a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, 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.

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

Private health insurance was available and considered affordable for Appellant in 2023, so we must consider whether the purchase of insurance would have caused Appellant to experience a hardship. Although Appellant may have been able to afford insurance after the loss of the parent’s employer sponsored insurance, Appellant made several efforts to obtain insurance through Appellant’s employment but was not able to do so until September 2023. Given these circumstances, I find that the penalty assessed against Appellant for 2023 should be waived in its entirety. See Schedule HC for 2023, 956 CMR 6.08 (1)(e), Exhibits 1, 2 and Testimony of Appellant, which I find to be credible.

PENALTY ASSESSED

Number of Months Appealed: 2

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-459

Appeal Decision Appeal Denied

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 18, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated April 30, 2024
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-two years old and is single and is now married. He lives in Middlesex County, Massachusetts.
2. The appellant works as an electrician and his company does not provide health insurance. The last time the Appellant had health insurance before June of 2024 was 2017.
3. Appellant does have health insurance in 2024 as of June 2024.
4. The Appellant's monthly expenses totaled \$3,811.50, consisting of rent \$1,200.00, heat & light \$200.00, internet & cable \$30.00, cell phone \$180.00, car insurance \$60.00, car gas \$70.00, food \$500.00, toiletries \$30.00, credit card \$1,200.00, medical expenses \$191.50.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 " During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$82,680.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Middlesex County for a 32 year old single person was \$326.00. The tables reflect that Appellant could afford \$551.20 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant works as an electrician and his company does not provide health insurance. The last time the Appellant had health insurance before June of 2024 was 2017.

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

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

Since Appellant’s 2023 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$82,680.00 in 2023, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$551.20 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$326.00 monthly for coverage *Id.* at Table 4.

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

On these facts, I find that Appellant has shown that he was not precluded from purchasing affordable health insurance during 2023. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that he is not exempt from a tax penalty for his non-compliance with the individual mandate.

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

PENALTY ASSESSED

Number of Months Appealed: ____12 ____ Number of Months Assessed: ____12____

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA 23-464

Appeal Decision Appeal Allowed in Part and Denied in Part

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 27, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant.

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

- Exhibit 1: Notice of Hearing dated October 18, 2024
- Exhibit 2: Appeal Case Information from form Schedule HC
- Exhibit 3: Statement of Grounds for Appeal Dated May 3, 2024
- Exhibit 4: Written Statement of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty-one years old and is single. He lives in Norfolk County, Massachusetts.
2. The appellant worked for a small company that did not provide health insurance to Appellant until October 2023. Appellant's expenses kept him from purchasing health insurance, Appellant stated.
3. Appellant does have health insurance in 2024.
4. The Appellant's monthly expenses totaled \$1,591.00, consisting of rent \$750.00, heat & light \$110.00, car payment \$56.00, car insurance \$55.00, car gas \$140.00, food \$400.00, clothing \$30.00, toiletries \$50.00.
5. The Appellant did submit a Statement of Grounds for Appeal-2023 " During 2022, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities".
6. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2023. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2023.
7. Based on the appellant's federal adjusted gross income and the above referenced tables, I find the appellant would not have been eligible for subsidized health insurance, because Appellant's income of \$62,418.00 was more than \$40,770.00. The monthly premium for health insurance available on the private market in Norfolk County for a 31 year old single person was \$326.00. The tables reflect that Appellant could afford \$416.12 This is less than what the appellant is deemed to afford. (Tables 2, 3 & 4 of the Schedule HC Instructions)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant worked for a small company that did not provide health insurance to Appellant until October 2023. Appellant’s expenses kept him from purchasing health insurance, Appellant stated.

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

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

Since Appellant’s 2023 income was more than 150 percent of the FPL, making him potentially subject to an individual mandate penalty, the threshold issue to be addressed is whether creditable health insurance coverage was affordable to him in 2023. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2023 Schedule HC Instructions and Worksheets, *supra*.

Appellant reported a federal AGI of \$62,418.00 in 2023, and Appellant’s filing status was single. EX 2. According to the Affordability Schedule established by the Connector’s board and included in the Instructions and Worksheets of the 2023 Massachusetts Schedule HC, Appellant could afford to pay \$416.12 monthly for health insurance. See 2023 Schedule HC Instructions and Worksheets, *supra* at

Table 3. Private insurance would have been available to him from the Premium Tables, at a cost of \$326.00 monthly for coverage *Id.* at Table 4.

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

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

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

PENALTY ASSESSED

Number of Months Appealed: 6 Number of Months Assessed: 3

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-465

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 25, 2024

Decision Date: December 10, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 25, 2024, and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without objection.

Ex. 1—Statement of Grounds for Appeal—2023

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—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. (Testimony, Ex. 2)
2. The appellant moved to Massachusetts from Costa Rica on May 1, 2023, to begin a job on May 8, 2023, with the employer for whom he had been working in Costa Rica. (Testimony, Ex. 1)
3. The employer offered health insurance and the appellant thought that he had correctly chosen a plan and completed the enrollment process. At some point towards the end of 2023, he discovered that he was not enrolled in health insurance which he attributed to a misunderstanding about the enrollment process. He was unable to enroll in a plan for the remainder of 2023 because he did not have a qualifying life event. He was later able to enroll in insurance for 2024 and has remained enrolled since January 1, 2024. (Testimony, Ex. 1)

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

4. The appellant did not indicate on his 2023 Schedule HC that he was a part-year resident of the state. (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 in 2023 for “other” reasons. He also submitted a letter with his statement in which he stated in part that he moved to Massachusetts from Costa Rica on May 1, 2023, and began a job on May 8, 2023, which offered health insurance. He stated that he did not complete the enrollment process for insurance due to a misunderstanding and discovered the oversight towards the end of 2023. He stated that he could not enroll in insurance at that time because he did not have a qualifying life event. Finally, he stated that he has been enrolled in employer insurance since the start of 2024.

According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. <https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Based on the information in the appellant’s Schedule HC which did not indicate part-year residence, he was assessed and is appealing a penalty of twelve months.

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

The appellant offered credible testimony that he sincerely thought that he had chosen a health insurance plan and completed the enrollment process, only to discover towards the end of 2023 that he was not enrolled due to a misunderstanding regarding the process. At that point, he was not eligible for a special enrollment period due to the lack of a qualifying life event.

Based on the totality of the evidence, it is concluded that the appellant established a good faith belief that he had enrolled in insurance through his employer and did not demonstrate an intent to avoid his obligation. Furthermore, he enrolled in insurance for 2024 thereby demonstrating that the mandate to purchase insurance was not lost on him.

Accordingly, the appellant’s request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2023 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 2023 for the amount equal to one half of the lowest cost health insurance plan available to you for each month you have been assessed the penalty, as listed above, plus applicable interest back to the due date of the return without regard to extension.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-495

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 19, 2024

Decision Date: November 28, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on November 19, 2024, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

- Ex. 1—Statement of Grounds for Appeal—2023
- Ex. 2—Appeal Case Information from Schedule HC ¹
- Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 58-years-old, is married and has adult children. He did not have health insurance in 2023. (Testimony, Exs. 1,2)
2. The appellant has been working for the same employer for approximately thirty years. The employer offers health insurance in which he has enrolled. In some years more recently, he has been enrolled in insurance through the Health Connector because employer health insurance was not affordable. He was last enrolled in insurance in 2022 through the Connector for which he paid a monthly premium of approximately \$300.00. (Testimony)
3. The appellant did not enroll in insurance either through his employer or the Health Connector in 2023 because he was financially strapped. During Covid, he lost hours and was never able to achieve full employment thereafter. His wife is disabled and has had insurance through Medicare for approximately four years. In addition, she has supplemental insurance through MassHealth. When

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

expenses became tight in 2023, he decided it was more important to prioritize his wife's health needs over his own. (Testimony)

4. The appellant began to fall behind with his mortgage payments in early 2023 and the situation got progressively worse during the year. By September, he was four months behind. By notice dated September 23, 2023, the appellant received a 90-day Right to Cure his Mortgage Default from his lender in which he was advised that he had until December 22, 2023, to pay an outstanding balance of \$8084.58. He was able to work out a loan modification with the lender under which he was required to pay \$3500.00/month beginning on November 29, 2023. Since that date, the appellant has made regular payments and has been in good standing with the lender. (Testimony, Ex. 1)
5. In addition to his mortgage, the appellant also fell behind on his car payments and his HELOC loan. Although his finances continue to be tight, he was able to catch up with those payments in 2024. (Testimony)
6. The appellant has been enrolled in employer health insurance in 2024 and recently completed his enrollment for 2025. (Testimony)
7. The appellant reported an adjusted gross income of \$104,617.00 on his jointly filed 2023 federal tax return, and reported that he was married with no dependents. (Ex. 2)

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

ANALYSIS AND CONCLUSIONS OF LAW

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 2023 because he was homeless; more than 30 days in arrears in rent or mortgage payments; or received an eviction or foreclosure notice.

The appellant did not have insurance from January through December. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2023, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months.

<https://www.mahealthconnector.org/wp-content/uploads/rules-and-regulations/AdminBulletin03-10.pdf> As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that prior to 2023, he last had health insurance in 2022 through the Health Connector, and before then, he was mostly enrolled in employer health insurance. He testified that during Covid, he lost work hours and never achieved full employment since then. He testified that he began to fall behind with

his mortgage payments in early 2023 and by September, he was four months behind. He testified that he received a 90-Day Right to Cure his Mortgage Default in September from his lender, and was able to work out a loan modification plan which began in November 2023. He testified that he also fell behind with other obligations including his car payments and a HELOC loan. He testified that his wife is disabled and has had insurance through Medicare and MassHealth for approximately four years. He testified that he prioritized his wife's health needs over his own in 2023 and made a decision to forgo insurance. Finally, he testified that he has been enrolled in employer insurance throughout 2024 and recently completed the enrollment process for 2025.

The appellant may not be subject to a penalty for failing to get health insurance if he can show that he experienced a hardship during 2023. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, incurring unexpected increases in basic living expenses due to domestic violence or death of a family member, sudden responsibility for providing care for a family member, or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2023 could be waived if he experienced financial circumstances such that the expense of purchasing health insurance would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The appellant's testimony regarding his mortgage arrears was corroborated by a notice from his lender stating that he had an outstanding balance of \$8084.58 as of September 23, 2023, which he had until December 22, 2023, to cure. The appellant testified that he worked out a loan modification plan with the lender and has been current with his mortgage since November 2023. Accordingly, it is concluded that the appellant established through substantial and credible evidence that he experienced a financial hardship within the meaning of 956 CMR 6.08(1)(a), as a result of which he should not be subject to a penalty. ²

Based upon the totality of the evidence, it is concluded that since the appellant's request for a waiver from the penalty is **granted** for the months in question. The determination that the appellant is eligible for a hardship waiver is with respect to 2023, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

² It is also noted that the appellant has been enrolled in health insurance in 2024, thereby demonstrating that the mandate to purchase insurance was not lost on him.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-500

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on November 20, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

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

Exhibit 2: Statement of Grounds for Appeal (4 pages).

Exhibit 3: Notice of 11/20/24 hearing, dated 10/31/24. (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their federal income tax return as a single person with no dependents claimed. (Exhibit 1).
2. The Appellant turned 26 in April 2023. (Exhibit 1).
3. The Appellant lived in Essex County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$51,230. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) from May to December 2023. The Appellant was assessed a five-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. The Appellant's AGI of \$51,230 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$51,230, could have afforded to pay \$324 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$47,566 and \$54,360 could spend 7.6% of their earnings on health insurance; 7.6% of \$51,230 is \$3893, and one-twelfth of \$3893 is \$324.
10. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 26 living in Essex County in May 2023, cost \$312 per month.
11. The Appellant testified that they have been working as a cook at their employer since January 2023 and that when they were hired, they were told that they would receive health insurance within 90 days.
12. The Appellant testified that their employer has not yet offered them health insurance and told them at one point during the year that they might have to move the Appellant to one of the employer's affiliated restaurants in order to give them health insurance, but they never did so.
13. The Appellant testified that their employer recently told them that they would offer them health insurance as of January 2025.
14. The Appellant testified that they did not explore the possibility of obtaining health insurance on their own in 2023 because their employer told them not to do so because the employer would be offering them health insurance.

15. The Appellant testified that in 2023, their work hours fluctuated but that they consistently worked more than 40 hours per week. The Appellant testified that they started working for \$18 per hour in 2023 and that their hourly pay was then increased to \$22 and then to \$30.
16. The Appellant testified that they estimated they had the following monthly expenses in 2023: \$675 for rent and utilities; \$75 for cable and Internet; \$240 for gas; \$170 for car insurance; \$250 in car repairs; \$90 for cellphone; \$700 for food; \$60 for household supplies and toiletries; and \$150 for clothing, including work clothes. These expenses total \$2410 per month. In addition, the Appellant testified that they provided their brother with approximately \$250 per month to help with rent and that they tried to save \$400 to \$500 per month.
17. The Appellant testified that they could not afford to purchase health insurance in 2023.
18. I let the Appellant know that it was currently the open enrollment period for the Health Connector and encouraged them to explore how much it would cost for them to purchase health insurance through the Health Connector. The Appellant said they would do so.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program in 2023 because the Appellant's AGI was more than 300% of the Federal Poverty Level. Finding of Fact No. 8.

I find that the Appellant did not have access to affordable health insurance meeting MCC standards through their employer because I find that the Appellant's testimony that their employer did not offer health insurance to be credible. Findings of Fact Nos. 11 and 12. The Appellant offered specific details about their employer's representations that lent credence to their testimony.

I find that the Appellant theoretically had access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$324 per month for health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$312 per month and therefore was affordable for them. Findings of Fact Nos. 9 and 10. I find, however, that the Appellant did not have actual access to this health insurance because they believed that their employer was imminently going to offer them health insurance, and this belief effectively blocked them from purchasing health insurance on the private market. I therefore find it appropriate to waive the Appellant's tax 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 2023. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a penalty for failure to have health insurance.

PENALTY ASSESSED

Number of Months Appealed: 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-503

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: November 20, 2024

Decision Date: November 30, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on November 20, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

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

Exhibit 2: Statement of Grounds for Appeal (4 pages).

Exhibit 3: Notice of 11/20/24 hearing, dated 10/31/24. (1 page).

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 June 2023. (Exhibit 1).
3. The Appellant lived in Plymouth County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$51,164. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) during any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant did not check off any box on their Statement of Grounds for Appeal. (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. The Appellant's AGI of \$51,164 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$51,164, could have afforded to pay \$324 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$47,566 and \$54,360 could spend 7.6% of their earnings on health insurance; 7.6% of \$51,164 is \$3888, and one-twelfth of \$3888 is \$324.
10. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 29 living in Plymouth County in January 2023, cost \$312 per month.
11. The Appellant testified that throughout 2023, they worked at a restaurant at which their income was tip-based and that that this job was their sole source of income.
12. The Appellant testified that they were never offered health insurance by their employer.
13. The Appellant testified that that their income fluctuated throughout the year and that they would work as many as 50 hours per week during the summer and as few as 20 hours per week during the winter. The Appellant testified that due to the fluctuating nature of their work, they never know how much money they will earn annually until the end of the year.
14. The Appellant testified that they live paycheck to paycheck and that they did not believe they could have afforded to pay for health insurance in 2023.
15. The Appellant testified that they estimated they had the following monthly expenses in 2023: \$1800 in rent; \$250 in utilities; \$150 for cable/wifi; \$300 for car insurance; \$400 for a car payment; \$400 for gas; \$160 for cell phone; \$400 for food; \$275 for household supplies and

toiletries (based on an estimate of \$250-300 per month; and \$300 for clothing, including work clothes. These expenses total \$4,435 per month, or \$53,220 per year.

16. The Appellant testified that they have sorted out their finances this year and that they have had health insurance through the Health Connector for the past three to four months.

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 during any month in 2023. The issue to be decided is whether the tax penalty should be waived in whole or in part.

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

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

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance 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.

I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program in 2023 because the Appellant's AGI was more than 300% of the Federal Poverty Level. Finding of Fact No. 8.

I find that the Appellant did not have access to affordable health insurance meeting MCC standards through their employer because the Appellant credibly testified that their employer did not offer them health insurance. Finding of Fact No. 12.

I find that the Appellant theoretically had access to affordable health insurance meeting MCC standards through the private market. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$324 per month for health insurance, and according to Table 4 of the Schedule HC, the least expensive health insurance plan available to the Appellant cost \$312 per month and therefore was affordable for them. Findings of Fact Nos. 9 and 10. I find, however, that this health insurance was not actually affordable to the Appellant because they suffered a hardship. The Appellant testified that their monthly expenses, which seem reasonable, totaled \$4,435 per month, or \$53,220 per year. Finding of Fact No. 15. This annual total is more than the Appellant's AGI of \$51,164. I therefore find that if the Appellant had purchased health insurance in 2023, they likely would have suffered a serious deprivation of food, shelter, clothing, or other necessities. I further find that the Appellant's testimony that their work hours fluctuated widely (Finding of Fact No. 13) to have been credible, and that in the months in which the Appellant worked fewer hours per month, they would have suffered an even greater hardship had they purchased health insurance. I therefore find it appropriate to waive the Appellant's tax penalty in its entirety. See G.L. c. 111M, § 2 and 956 CMR 6.07(8) and 6.08(1)(e).

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-538

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 17, 2024

Decision Date: December 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant and their attorney appeared at the hearing, which was held by telephone, on December 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Attorney's argument, the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 20, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC- 2023.
- Exhibit 3: The Statement of Grounds for Appeal dated May 8, 2024
- Exhibit 4: The Appellant's letter in support of the appeal, with attachments.
- Exhibit 5: Final Appeal Decision of 2019 Tax Penalty dated July 30, 2020.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 27 in March 2023, filed their Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant lived in Worcester County, MA in 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$47,851 (Exhibit 2).
4. The Appellant did not have health insurance for any months of tax year 2023. The Appellant was assessed a twelve-month tax penalty (Exhibit 2).
5. The Appellant filed an appeal of the assessment in May, 2024 (Exhibits 3, 4).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant, filing the Federal tax return as a single person with no dependent claimed, with an annual adjusted gross income of \$47,851 could afford to pay \$303 per month for health insurance. In accordance with Table 4, the Appellant, age 27, living in Worcester County, could have purchased private insurance for \$312 per month (Schedule HC for 2023). Private insurance was not affordable for the Appellant in 2023.
8. The Appellant testified that they did not qualify for health insurance through their employer in tax year 2023 due to their having irregular hours (Appellant Testimony).
9. The Appellant was not eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$47,851 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. The Appellant's attorney argued that the Appellant's expenses and debts were high in tax year 2023. This resulted in the Appellant's filing for bankruptcy on April 23, 2023 with a discharge date of July 26, 2023 (Exhibit 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not have health insurance for any months of tax year 2023 and consequently has been assessed a twelve-month tax penalty. The Appellant filed an appeal of the assessment in May 2024 citing financial hardship as the basis for the appeal.

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

In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependent claimed with an adjusted gross income of \$47,851 could afford to pay \$303 per month for health insurance. According to Table 4, the Appellant, age 27, living in Worcester County, could have purchased a

private insurance plan for \$312 per month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant testified that they did not have access to employer sponsored health insurance in tax year 2023 because their hours were not steady. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$47,851 was greater than 300% of the federal poverty level, which was \$40,770 for a tax household of one in 2023.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

cc: Health Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL DECISION: PA23-542

Appeal Decision: Appeal Denied.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 17, 2024

Decision Date: December 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 20, 2024.

Exhibit 2: Appeal Case Information from Schedule HC- 2023.

Exhibit 3: Statement of Grounds for Appeal dated May 8, 2024, with attachments.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 26 in December 2023 filed their 2023 Federal Income Tax return as a single person with no dependents claimed (Exhibit 2).
2. The Appellant was a part- year resident who lived in Bristol County, MA for the period of March 6 through December 31 in tax year 2023 (Exhibit 2).
3. The Appellant's Federal Adjusted Gross Income for 2023 was \$45,063 (Exhibit 2).
4. The Appellant did not have health insurance for the period of March through December in tax year 2023 (Exhibit 2 and Appellant Testimony).
5. The Appellant has been assessed a seven-month tax penalty for 2023. The Appellant filed an appeal of the assessment in May 2024, citing reasons other than financial hardship as the basis for their appeal (Exhibits 2, 3).

6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.
7. In accordance with Table 3 of Schedule HC for 2023, the Appellant filing the Federal tax return as a single person with no dependents claimed, with an annual adjusted gross income of \$45,063 could afford to pay \$280 per month for health insurance. In accordance with Table 4, the Appellant age 26, living in Bristol County, could have purchased private insurance for \$312 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellant in 2023.
8. The Appellant would not have been eligible for ConnectorCare coverage in 2023 because the Appellant's income of \$45,063 was greater than 300% of the federal poverty level, which was \$40,770 for a household of one in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. The Appellant testified that they moved to Massachusetts from another state and did not know health insurance was required in Massachusetts. The Appellant also said that they thought they were covered through their employer. The Appellant's testimony was not credible and was contradicted by the email documents submitted by the Appellant with their appeal request (Exhibit 3 and Appellant Testimony).
10. On June 20, 2023 the Appellant was contacted by their employer's payroll department regarding enrolling in employer sponsored health insurance. The Appellant was advised that the company provided Silver Tier coverage through the Massachusetts Health Connector. The Appellant was told that there were multiple options with affordable copayments to choose from. The Appellant was advised that they must enroll or waive enrollment by June 30, 2023. The payroll employee offered to set up a time to explain the process if the Appellant wished. Enrollment information was provided in writing. On June 26, 2023 payroll contacted the Appellant to ask if the Appellant intended to enroll and asked if the Appellant needed help. On June 26, 2023 the Appellant responded that they spoke with someone and had enrolled already. On June 26, the payroll employee advised the Appellant that they were enrolled in dental insurance but not health insurance. Again, help was offered. On July 12, 2023 the Appellant responded that it was their mistake. On July 12, 2023 payroll reminded the Appellant that they must enroll in a plan by July 20, 2024 or wait until the next open enrollment period on June 1, 2024. The Appellant contacted payroll on July 25, 2023 and was informed that they had missed open enrollment (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant filed their 2023 income tax return as a single person with no dependents. The Appellant was a part-year resident in Massachusetts for the period of March 6, 2023 through December 31, 2023. The Appellant did not have health insurance for any months of tax year 2023 and consequently has been assessed a seven-month penalty. The Appellant filed an appeal in May 2024 citing circumstances other than financial hardship as the basis of their appeal.

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

In accordance with Table 3 of Schedule HC for 2023 the Appellant filing the Federal tax return as a single person with no dependents claimed with an adjusted gross income of \$45,063 could afford to pay \$280 per month for health insurance. According to Table 4, the Appellant, age 26, living in Bristol County, could have purchased a private insurance plan for \$312 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellant in tax year 2023.

The Appellant would not have been eligible for ConnectorCare coverage based upon the Appellant's income of \$45,063 that was greater than 300% of the federal poverty level which was \$40,770 for their household of one. See Table 2 of Schedule HC 2023 and 956 CMR 12.04 for eligibility criteria.

The Appellant testified that they moved to Massachusetts from another state and did not know Massachusetts required enrollment in health insurance to avoid a tax penalty. The Appellant then said that they thought they were enrolled in health insurance. The Appellant's testimony was not credible and was refuted by the email communication between the Appellant and their employer's payroll department during the period of June 20, 2023 through July 25, 2023. The Appellant was given information in writing about the options for employer sponsored health insurance, help was offered, the Appellant was reminded more than once about the open enrollment deadlines. The Appellant enrolled in the dental program but did not enroll in the offered health insurance.

The Appellant did not offer any evidence or testimony to establish financial hardship as the basis for their appeal. 956 CMR 6.08. The Appellant's seven -month penalty is upheld. See 956 CMR 6.08.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-545

Appeal Decision: Appeal Approved.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 17, 2024

Decision Date: December 23, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 17, 2024. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence:

- Exhibit 1: Health Connector Appeals Unit Notice of Hearing dated November 20, 2024.
- Exhibit 2: Appeal Case Information from Schedule HC -2023.
- Exhibit 3: Statement of Grounds for Appeal, with attachment dated April 29, 2024.

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, age 52 in May 2023 and their Spouse age 35 in June 2023, filed their 2023 Federal Income Tax return as a married couple with no dependents claimed (Exhibit 2).
2. The Appellants lived in Bristol County, MA in 2023 (Exhibit 2).
3. The Appellants' Federal Adjusted Gross Income for 2023 was \$44,072 (Exhibit 2).
4. The Appellants did not have health insurance for any months of tax year 2023 and consequently each has been assessed a twelve-month penalty (Exhibit 2).
5. The Appellants filed an appeal of the assessment in April 2024 (Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2023 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the

Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2023.

7. In accordance with Table 3 of Schedule HC for 2023, the Appellants filing the Federal tax return as a married couple with no dependents claimed, with an annual adjusted gross income of \$44,072 could afford to pay \$228 per month for health insurance. In accordance with Table 4, the Appellants with one person, age 52, living in Bristol County, could have purchased private insurance for \$950 per month for a plan (Schedule HC for 2023). Private insurance was not affordable for the Appellants in tax year 2023.
8. The Appellant testified that they and their spouse did not have access to employer sponsored health insurance in tax year 2023 (Appellant Testimony).
9. The Appellants were financially eligible for ConnectorCare coverage in 2023 because the Appellants' income of \$44,072 was less than 300% of the federal poverty level, which was \$54,930 for a tax household of two in 2023 (See Table 2 of Schedule HC-2023 and 956 CMR 12.04) (Exhibit 2).
10. The Appellant testified that their thirteen-year-old son lives with them but under the terms of their divorce agreement the Appellant can only claim their child as a dependent for tax purposes every other year (Appellant Testimony).
11. The Appellants' 2023 monthly living expenses Included: mortgage, taxes and insurance-\$1,800-\$2,000; oil heat-\$200-\$250; electricity-\$250-\$350; -telephone-\$100; car payment-\$350; car insurance-\$350; gasoline for two cars-\$300 and food-\$867. The Appellant said that they got behind in their utility payments and were facing a shut off when their bill reached \$1,109 in April 2023. The Appellant said that they had additional expenses for clothing and other necessities as well and could not afford health insurance with limited income. I found the Appellant to be credible (Exhibit 3 and Appellant Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants filed their 2023 tax return as a married couple with no dependents claimed. The Appellants did not have health insurance for any months in tax year 2023 and each has been assessed a twelve-month penalty. The Appellants appealed the penalty in April 2024 citing financial hardship as the basis for their appeal.

To determine if the penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellants through employment, through private insurance, or through a government sponsored program. If affordable insurance

was available, it must be determined if such insurance was not affordable to the Appellants because the Appellants experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2023, the Appellants filing the Federal tax return as a married couple with no dependents claimed with an adjusted gross income of \$44,072 could afford to pay \$228 per month for health insurance. According to Table 4, the Appellants with one person, age 52, living in Bristol County, could have purchased a private insurance plan for \$950 month. See Schedule HC for 2023. Private insurance was not affordable for the Appellants in tax year 2023.

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

The Appellant testified that although their tax household is two persons, the Appellant's thirteen-year-old son lives with them. The Appellant testified to significant monthly living expenses in addition to the expenses for their child. The Appellant said that they struggled to meet their living expenses and did receive an Eversource shut off notice in April 2023. Under these circumstances the Appellants have demonstrated that purchasing health insurance would have caused the Appellants significant financial hardship. The Appellants' twelve-month penalty is waived in full. 956 CMR 6.08(1)(b).

The Appellants should note that the waiver of their penalty is based upon the facts that I have determined to be true in 2023. The 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 Primary Taxpayer:	Number of Months Appealed: 12	Number of Months Assessed: 0
Appellant Spouse:	Number of Months Appealed: 12	Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-550

Appeal Decision: The tax penalty is overturned.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 18, 2024

Decision Date: December 29, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on December 18, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

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

Exhibit 2: Statement of Grounds for Appeal (4 pages).

Exhibit 3: Notice of 12/18/24 hearing, dated 11/20/24. (1 page).

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. (Exhibit 1).
2. The Appellant turned 27 in October 2023. (Exhibit 1).
3. The Appellant lived in Suffolk County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$50,047. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) from January through July 2023. The Appellant was assessed a 4-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following box on their Statement of Grounds for Appeal: "Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
8. The Appellant's AGI of \$50,047 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person with no dependents in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
9. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$50,047, could have afforded to pay \$316 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was between \$47,566 and \$54,360 could spend 7.6% of their earnings on health insurance; 7.6% of \$50,047 is \$3,803, and one-twelfth of \$3,803 is \$316.
10. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 26 living in Suffolk County in January 2023, cost \$312 per month.
11. The Appellant testified that they had health insurance through their parents until October 2022, when they turned 26.
12. The Appellant testified that they did not know and were not informed by their prior insurance company that they only had 60 days to get new insurance after they turned 26. The Appellant testified that they thought they could enroll in health insurance at any time after they turned 26.
13. The Appellant testified that when they turned 26 in October 2022, they were working part-time at their current employer, earning \$16.50 per hour and working approximately 20 hours per week. This would amount to an annualized income of approximately \$17,160.

14. The Appellant testified that they received a promotion in February 2023 and began working approximately 45 hours per week at a rate of \$21.50 per hour.
15. The Appellant testified that they tried to get health insurance through their employer in February 2023, when they received their promotion and began working full-time, but their employer told them they could not enroll in insurance at that time because they had not experienced a qualifying life event.
16. The Appellant testified that they tried to get insurance through MassHealth in late February or early March 2023 but were told that they did not qualify because they made too much money.
17. The Appellant testified that they enrolled in health insurance during their employer's open enrollment period in July 2023 and have had this insurance ever since.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

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

First, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through a government-subsidized program in 2023 because the Appellant's AGI was more than 300% of the Federal Poverty Level. Finding of Fact No. 8.

Second, I find that the Appellant did not have access to affordable health insurance meeting MCC standards through employment during the period in which they were uninsured. According to Table 3 of the Schedule HC for 2022, persons with an AGI of \$19,320 or less could not afford to spend any money on health insurance. The Appellant's annualized income was approximately \$17,160 before they were promoted in February 2023. Finding of Fact No. 13. As such, I find that the Appellant could not have afforded to pay anything for employer-sponsored health insurance before they received their promotion. I further find, based on the Appellant's credible testimony, that they were unable to enroll in employer-sponsored health insurance upon receiving their promotion in February 2023 because they had not had a qualifying life event that would enable them to enroll in their employer's health insurance outside of the open enrollment period. Finding of Fact No. 15.

Third, I conclude that the Appellant did not have access to affordable health insurance meeting MCC standards through the private market during the period in which they were uninsured. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$316 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 \$312 per month. Findings of Fact Nos. 9 and 10. This makes it look like the Appellant could have afforded health insurance on the private market in 2023, though just barely. As noted earlier, though, the Appellant's income increased significantly in February 2023, when they received a promotion. I find that prior to February 2023, when the Appellant was working part-time and earning approximately \$17,160 per year, they could not have afforded to purchase health insurance on the private market. I further find that by the time the Appellant theoretically could have afforded private health insurance (i.e., in February 2023), they would have been unable to enroll in such health insurance because the Health Connector's open enrollment period, which runs from November to January each year, would have closed.

I note that the Appellant likely could have enrolled in subsidized health insurance in 2022 during the period immediately after they turned 26, and that if they had been removed from this subsidized health insurance after receiving their promotion in February 2023, they might have been entitled to a special enrollment period in which to enroll in private health insurance in 2023. See 45 CFR § 155.420. However, I find credible the Appellant's testimony that they did not know that they had only 60 days to enroll in health insurance after losing health insurance through their parents, Finding of Fact No. 12, and that this lack of knowledge caused their delay in pursuing health insurance coverage. I note that the Appellant enrolled in employer-sponsored health insurance as soon as they were able to do so in July 2023, Finding of Fact No. 17, and did not appear to be willfully flouting the individual mandate. As a result, to the extent that the Appellant could have enrolled in private health insurance in 2023 after being removed from subsidized health insurance obtained in 2022, I find it appropriate to exercise my discretion to waive the Appellant's tax penalty.

Based on the above, I waive the Appellant's tax penalty in its entirety because the Appellant did not have access to health insurance meeting MCC standards through a government-subsidized program,

through the private market, or through employment and because I find that the Appellant's situation warrants a favorable exercise of discretion. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

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

PENALTY ASSESSED

Number of Months Appealed: 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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA23-603

Appeal Decision: The tax penalty is upheld.

Hearing Issue: Appeal of the 2023 Tax Year Penalty

Hearing Date: December 23, 2024

Decision Date: December 31, 2024

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant was a single person with no dependents in 2023. The Appellant appeared at the hearing, which was held by telephone on December 23, 2024. The procedures to be followed during the hearing were reviewed with the Appellant, who was then sworn in. Exhibits were marked and admitted into evidence with no objection from the Appellant. The hearing record consists of the testimony of the Appellant and the following documents that were admitted into evidence:

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

Exhibit 2: Statement of Grounds for Appeal and supporting documentation (6 pages).

Exhibit 3: Notice of 12/23/24 hearing, dated 11/22/24. (1 page).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant filed their 2023 federal income tax return as a single person with no dependents. (Exhibit 1).
2. The Appellant turned 50 in January 2023. (Exhibit 1).
3. The Appellant lived in Bristol County in 2023. (Exhibit 1).
4. According to the Appellant's Schedule HC, the Appellant's federal Adjusted Gross Income ("AGI") for 2023 was \$93,173. (Exhibit 1).

5. According to the Appellant's Schedule HC, the Appellant did not have health insurance that met Massachusetts' minimum creditable coverage (MCC) requirements for any month in 2023. The Appellant was assessed a 12-month tax penalty. (Exhibit 1).
6. The Appellant checked off the following boxes on their Statement of Grounds for Appeal: "During 2023, the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing, or other necessities" and "Other. During 2023 other circumstances, such as: applying the Affordability Tables in Schedule HC to you is inequitable (for example, because of family size); that you were unable to obtain government-subsidized insurance even though your income qualified you; or that you didn't reside in Massachusetts during your period of uninsurance." (Exhibit 2).
7. The Appellant included a letter with their Statement of Grounds for Appeal that stated: "During the 2023 year my income was such that I could barely afford food and shelter. I do not remember buying new clothes outside of socks and underwear. I contribute a large portion of my income to help out 2 different households besides my own. I did not visit the Dr's last year or for many years. I am struggling to keep food in my fridge let alone \$450 every month for insurance. The amount you are asking as a penalty is way too much." (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the Department of Revenue ("DOR") 2023 Massachusetts Schedule HC Health Care Instruction and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2023. Table 2 sets forth income at 300% of the federal poverty level, and Tables 5 and 6 set forth tax penalties in effect for 2023.
9. The Appellant's AGI of \$93,173 was more than 300% of the Federal Poverty Level, which was \$40,770 for a single person with no dependents in 2023. (See Table 2 of Schedule HC-2023 and 956 CMR 12.04).
10. According to Table 3 of Schedule HC for 2023, the Appellant, who filed their federal tax return as a single person with no dependents and claimed an adjusted gross income of \$93,173, could have afforded to pay \$621 per month for health insurance. The calculation is as follows: Table 3 states that a single person with no dependents whose 2023 AGI was \$54,361 or more could spend 8% of their earnings on health insurance; 8% of \$93,173 is \$7,453, and one-twelfth of \$7,453 is \$621.
11. According to Table 4 of Schedule HC for 2023, the least expensive health insurance plan available on the private market to the Appellant, a single person age 50 living in Bristol County in January 2023, cost \$475 per month.
12. The Appellant testified that they had health insurance through their employer until the beginning of 2023.

13. The Appellant testified that in January 2023, they started a new job, and employer-sponsored health insurance would have cost them more than \$600 every two weeks. The Appellant testified that they elected not to enroll in this health insurance because the cost was exorbitant.
14. The Appellant testified that they haven't been to the doctor in more than twenty years and that they don't do western medicine.
15. The Appellant testified that they looked into getting health insurance through the Health Connector about a month or two after starting their new job in 2023, but that someone else's name was linked to their email, and they had trouble understanding the process and didn't want to deal with it. The Appellant testified that they should have followed up.
16. The Appellant testified that they understood that they broke the law but that the penalty seems like a lot. The Appellant testified that they thought the penalty would be "a few hundred bucks" and that they figured, "oh, whatever, you've gotta pay off the man every once in a while."
17. The Appellant testified that they had the following monthly expenses in 2023: \$1200 for housing; \$107 for cable/Internet; \$189 for car insurance; \$120 for gas; \$800 for food; \$107 for a cellphone; \$100 for clothes; and \$50 for household supplies and toiletries. These expenses total \$2673 per month, or \$32,076 per year.
18. The Appellant testified that they paid \$9000 for a car in 2023.
19. The Appellant testified that they give \$200--300 per month to their sister, who is a single mother with three children, and \$200-300 per month to a friend who is also a single mother. Added together, and assuming an average payment of \$250 per month to each recipient, these payments would total \$6000 per year.
20. The total of the Appellant's living expenses (\$32,076), car payment (\$9000), and payments to the Appellant's sister and friend (\$6000) is \$47,076.
21. The Appellant testified that they are currently self-employed and do not have health insurance. I encouraged the Appellant to explore the purchase of health insurance through the Health Connector and noted that it was currently the open enrollment period.

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

To determine if the penalty should be waived in whole or in part, there must be a determination as to whether affordable insurance 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 in 2023 because the Appellant’s AGI was more than 300% of the Federal Poverty Level. Finding of Fact No. 9.

Second, I find that the Appellant did not have effective access to affordable health insurance meeting MCC standards through employment because the Appellant credibly testified that the cost for their employer-sponsored health insurance would have been more than \$600 every two weeks. According to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$621 per month for health insurance, Finding of Fact No. 10, so a payment of more than \$600 every two weeks would not have been affordable for the Appellant.

Third, I find that the Appellant had access to affordable health insurance on the private market and that they did not suffer a hardship. As noted above, according to Table 3 of the Schedule HC, the Appellant could have afforded to pay \$621 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 \$475 per month. Findings of Fact Nos. 10 and 11. The open enrollment period was likely still in effect when the Appellant started their new job in January 2023, and the Appellant also would have been entitled to a special enrollment period after losing their previous health insurance. See 45 CFR § 155.420. The Appellant stated on their Statement of Grounds for appeal that the purchase of health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities, but I find this not to be the case, as the Appellant’s AGI was \$93,173, and their stated expenses totaled \$47,076. Finding of Fact

No. 20 and Exhibit 1. I find that the Appellant had sufficient income even after expenses that they could have purchased private health insurance without suffering a hardship.

The Appellant also testified that they looked into purchasing health insurance through the Health Connector in 2023, but that they had trouble understanding the process, didn't want to deal with it, and gave up. Finding of Fact No. 15. The Appellant further testified that they should have followed up. Finding of Fact No. 15. The Appellant also testified that they knew they did not comply with the law but that the penalty seemed like a lot, that they thought it would be "a few hundred bucks," and that they figured "oh, whatever, you've gotta pay off the man every once in a while." Finding of Fact No. 16. Weighing this testimony, I find that the Appellant did not suffer difficulties with the Health Connector process such that they did not have access to private health insurance, but rather that the Appellant made a conscious decision to give up the pursuit of private health insurance and to pay what they thought would be a penalty of several hundred dollars.

Based on the above, I uphold the Appellant's penalty in its entirety because the Appellant had access to affordable health insurance meeting MCC standards on the private market and did not suffer a hardship. See G.L. c. 111M, § 2 and 956 CMR 6.07(8).

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 2023.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

cc: Connector Appeals Unit