

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1106

Appeal Decision Appeal Allowed

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 25, 2021

Decision Date: February 21, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on January 21, 2021

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

Exhibit 1: Notice of Hearing dated December 21, 2020

Exhibit 2: Appeal Case Information from form Schedule HC

Exhibit 3: Statement of Grounds for Appeal

Exhibit 4: Written Statement of Appeal

Exhibit 5: Open record documents

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is thirty years old and is married. Appellant lived in Massachusetts from January through June in 2019. Appellant lived in four states in 2019. Appellant lived in South Carolina from July through September and from September through December Appellant lived in Syracuse, New York. Appellant's husband never lived in Massachusetts in 2019.
2. Appellant was working as a data analyst.
3. Appellant provided proof of her insurance during her time in Massachusetts, which was January through July with her written statement of appeal. Appellant was on an internship during this time. . Appellant provided proof of her coverage with her written appeal (Exhibit 4).
4. Appellant did not live in Massachusetts in 2020.
5. Appellant was requested to provide written documentation of having health insurance during the remainder of the 2019 year and did provide said documentation, which showed health coverage from August through December, 2019 (Exhibit 5).
6. The Appellant did not submit a Statement of Grounds for Appeal-2019. Appellant should have appealed under "Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn't reside in Massachusetts during your period of un-insurance." I will hear Appellant's appeal under this ground.
7. I take administrative notice of the information set forth in tables 1 through 6 in the Department of Revenue Schedule HC Health Care Instructions and Worksheets (Schedule HC Instructions). Tables 3 & 4 incorporate the affordability schedules adopted by the board of directors of the Commonwealth Health Insurance Connector Authority for 2019. Table 1 sets forth the income eligibility standards for various family sizes at 150% of the federal poverty level and Table 2 sets forth the income eligibility standards for various family sizes at 300 per cent of the federal poverty level, which is the income eligibility standard for the government-subsidized health insurance program. See Mass. G.L. c. 118H, s.3(a)(1). Tables 5 and 6 set forth the tax penalties for 2019.

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 did not submit a Statement of Grounds for Appeal-2019. Appellant should have appealed under “Other. During 2019 other circumstance, such as applying the Affordability Tables in Schedule HC is inequitable or that you didn’t reside in Massachusetts during your period of un-insurance.” I will hear Appellant’s appeal under this ground.

The appellant is thirty years old and is married. Appellant lived in Massachusetts from January through June in 2019. Appellant lived in four states in 2019, Appellant lived in South Carolina from July through September and from September through December Appellant lived in Syracuse, New York. Appellant’s husband never lived in Massachusetts in 2019. Appellant provided proof of her insurance during her time in Massachusetts, which was January through July with her written statement of appeal. Appellant was on an internship during this time. Appellant provided proof of her coverage with her written appeal. Appellant was requested to provide written documentation of having health insurance during the remainder of the 2019 year and did provide said documentation, which showed health coverage from August through December, 2019.

The Health Care Reform Act of 2006 requires every adult resident of Massachusetts to obtain and maintain creditable insurance coverage “so long as it is deemed affordable” under the schedule established by the board of the Connector. Mass. Gen. Laws ch. 111M, § 2(a). Massachusetts residents who fail to indicate on their state tax returns that they obtained the mandated creditable coverage are subject to a tax penalty for each month in which that the individual did not have creditable health insurance. *Id.* at § 2(b). However, individuals with incomes up to 150 percent of the Federal Poverty Level (“FPL”) are not subject to any penalty for non-compliance with the individual mandate. See Massachusetts Department of Revenue Technical Information Release (“TIR”) 13-1, available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2013-releases/tir-13-1.html>. For 2019, 150 percent of the FPL was \$18,210.00 for a single person. *Id.* In addition, a lapse in coverage of 63 days or less is not subject to the section 2(b) penalty. See Administrative Bulletin 03-10 (Dec. 7, 2010), available at <https://www.mahealthconnector.org/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Health%2520Care%2520Reform/Regulations/documents/Administrative%20Information%20Bulletin%2003-10.pdf>; see also 830 Mass. Code Regs. 111M.2.1(5)(c) (2008). Thus, no penalty is imposed for lapses in coverage consisting of three or fewer consecutive calendar months. *Id.*

Since Appellant’s 2019 income was more than 150 percent of the FPL, making 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 2019. In determining affordability, consideration is given first to the amount Appellant is deemed able to afford for health insurance premiums under the Affordability Schedule and second to the cost of health insurance that was available through employer-sponsored plans, government-subsidized programs or on the private insurance market. See 2019 Schedule HC Instructions and Worksheets, *supra*.

Appellant had health insurance coverage for the entire year of 2019.

On these facts, I find that Appellant has shown that she complied with purchasing affordable health insurance during 2019. 956 Mass. Code Regs. 6.08(3) (2008). Accordingly, I conclude that she is exempt from a tax penalty because she did comply with the individual mandate.

Accordingly, Appellant's appeal is **ALLOWED**, and the 2019 penalty assessed is **OVERTURNED**.

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1159

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2018 Tax Year Penalty
Hearing Date: February 11, 2021
Decision Date: February 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on February 11, 2021. Appellant's Spouse was not present. The procedures to be followed during the hearing were reviewed with the Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. 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 2018.¹(1P)
- Exhibit 2: Statement of Grounds for Appeal 2018 dated 7/2/2020. (1 PP).
- Exhibit 2(a): Appellant's correspondence with Appeal dated July 16, 2020 (1 page).
- Exhibit 2(b) Appellant's Supporting Documentation including Spouse's Visa, Marriage Certificate, and Health Insurance Card (7 pages)
- Exhibit 3: Health Connector's Notice of Hearing dated 1/13/2021 (2 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2018 Massachusetts tax return reported were married in June, 2018, was age 43 in 2018, and Appellant's Spouse age 28 in 2018. (Exhibit 1, Testimony of Appellant).
2. Appellants were married in Vietnam in June 2018. (Exhibit 2(a), Testimony of Appellant).
3. Appellant Spouse entered the United States on an Immigration Visa in August 2019. (Testimony of Appellant, Exhibits 2(a)(b)).
4. Appellant Husband had Employer Sponsored Insurance("ESI") in 2018. (Testimony of Appellant, Exhibit 1).

Ex. 1 is a computer printout that extracts information submitted by the Appellants on Schedule HC as part of their 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. Appellant's Spouse had national health insurance coverage in Vietnam in 2018. (Exhibit 2(a), (b), Testimony of Appellant).
6. Appellants Federal Adjusted Gross Income for 2018 was \$ 121,174(Exhibit 1).
7. Appellant's Spouse has been assessed a tax penalty for twelve (12) months in 2018 (Exhibit 1).
8. The Appellant provided evidence his Spouse did not reside in Massachusetts and had coverage during the time for which she is being penalized in 2018. (Testimony of Appellant, Exhibit 2(a)(b).).
9. According to Table 3 Appellants could have afforded \$817 per month for health insurance in 2018. According to Table 4 Appellant's Spouse could have purchased an individual insurance plan for \$ 249.00 per month.
10. In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov/dor/docs/dor/health-care/2018>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 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 2018 should be waived, either in whole or in part. Appellant Spouse has been assessed a tax penalty for twelve (12) months in 2018. Appellants have appealed the penalty. See Exhibits 1 and 2.

The Appellant submitted a statement of grounds for appeal (Exhibit 2), claiming that the individual mandate did not apply to them during 2018 for "Other" reasons such as being a non-resident of the state or not qualifying for government subsidized insurance. The Appellant did testify and submit a statement in support of their appeal, as well as exhibits including a US Immigration Visa and Marriage Certificate claiming that the individual mandate did not apply to the Appellant Spouse the during 2018 because the Appellant Spouse did not enter the United States until August 2019. (Testimony, See Exhibit 2(b)).

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

Appellant testified credibly and provided supporting documentation testified that his Spouse did not arrive in Massachusetts until August 2019 and they were married on June 25, 2018. (Testimony of Appellant, Exhibit 2(a)(b)).

Given the totality of the evidence; where the Appellant Spouse did not reside in Massachusetts until August 2019 and that the Appellant Spouse had health insurance during the period for which she is being penalized, I determine that that the Appellant's Spouse was exempt from the individual mandate and the Appellant Spouse has demonstrated there were other circumstances that precluded them from obtaining government-subsidized insurance. The Appellants' penalty is, therefore, waived and their request for a waiver from the penalty is granted pursuant to 956 CMR 6.08(3).

Appellants should note that any waiver granted here is for 2018 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 Appellants be assessed a penalty in the future.

PENALTY ASSESSED

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

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

If the number of months assessed is zero (0) because your penalty has been overturned, the Connector has notified the Department of Revenue that you should NOT be assessed a penalty for Tax Year 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

If the appellant still does not have health insurance, and if his income and employment have not changed, hhe 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. The open enrollment period runs from November 1, 2018-January 23, 2019.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1057

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 12, 2021

Decision Date: February 17, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on January 12, 2021.

The hearing record consists of the Appellant's testimony and the following documents which were admitted into evidence without objection. In response to a post-hearing Open Record request, Appellant provided a copy of their Form 1099-HC for 2019, which is included below as Exhibit 7.

Exhibit 1: Hearing Notice Dated December 14, 2020 (2 pages)

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

Exhibit 3: Request to Vacate Dismissal, Rec'd 9/1/20 (1 page)

Exhibit 4: Vacated Dismissal Approved, 9/8/20 (1 page)

Exhibit 5: Tax Penalty Appeal Decision PA17-302 (2 pages)

Exhibit 6: Tax Penalty Appeal Decision PA18-81 (3 pages)

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

Exhibit 7: Form 1099-HC for 2019 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 30 years old in September 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Hampden County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$55,284.00. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2). The Appellant filed a request to vacate the dismissal of their appeal of that assessment in September 2020. (Exhibits 3 and Appellant's Testimony). That request was granted. (Exhibit 4).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$55,284.00, could afford to pay \$368.56 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30, living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellant in 2019.
8. Employer-sponsored insurance was not offered to the Appellant. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to Appellant.
9. The Appellant was not income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$55,284.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).
10. The Appellant testified that they worked as a bar tender during 2019, earning wages of \$4.25 per hour plus tips. (Appellants' Testimony). They further testified that they

worked about 35-40 hours per week throughout 2019 but that their hours fluctuated. (Appellants' Testimony, which I credit).

11. Appellant began tax year 2019 with subsidized health insurance through the Health Connector. (Appellants' Testimony and Exhibit 6). They testified that the insurance for health and dental cost about \$260.00 monthly. (Appellant's Testimony).
12. Appellant had Minimum Creditable Coverage (MCC) during 2019 from February through September. (Exhibit 7). They testified that by September they no longer could afford to pay the health insurance premiums. (Appellant's Testimony).
13. Appellant's 2019 monthly living expenses of \$1,578.00 included: Rent - \$200.00, Phone - \$115.00, Electricity - \$50.00, Food - \$150.00, Car payments - \$440.00, Car insurance - \$233.00, Car maintenance - \$125.00, Gas - \$90.00, Pet/dog care - \$50.00, Student loans - \$125.00. (Appellant's Testimony).
14. Appellant did not testify to any unusual expenses, eviction notices or utility shut off notices during 2019. (Appellant's Testimony).
15. Appellant testified that they were laid off for 3.5 months during 2020 because of the pandemic and work part-time currently. (Appellant's Testimony).
16. Appellant testified that they are enrolled in health insurance coverage for 2021. (Appellant's Testimony).
17. The Appellant appealed assessed tax penalties and had hearings for tax years 2017 and 2018, each of which resulted in a written decision. (Exhibits 5 & 6)

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant appeals the assessed tax penalty of twelve (12) months based on financial hardship. (Appellant's Testimony and Exhibit 3).

As an initial matter, I note that Appellant did not have health insurance in January 2019

but did have coverage from February through September 2019. (Exhibit 7). Thus, Appellant had MCC-compliant insurance for eight (8) months during 2019, contrary to the information contained on their Appeal Case Information from Schedule HC for 2019 which shows they had no coverage during 2019. (Exhibit 2). Pursuant to the three-month grace period discussed above, Appellant should not be assessed a tax penalty for being uninsured in January 2019. Additionally, given that they had insurance coverage from February through September 2019 and consistent with the three-month grace period, which may be applied again, Appellant should not be assessed a tax penalty for their uninsured months of October through December 2019.

Even if Appellant's tax penalties were not waived under the three-month grace period, Appellant has demonstrated financial hardship that would warrant waiving their penalty.

To determine if the corrected four (4) month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$55,284.00, could afford to pay \$368.56 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30, living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellant in 2019.

Employer-sponsored insurance was not offered to the Appellant. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to Appellant.

The Appellant was not income-eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$55,284.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

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

The Appellant testified that they worked as a bar tender during 2019, earning wages of \$4.25 per hour plus tips. (Appellants' Testimony). They further testified that they worked about 35-40 hours per week throughout 2019 but that their hours fluctuated. (Appellants' Testimony, which I credit). Appellant had subsidized health insurance through the Health Connector from February through September 2019. (Appellant's Testimony and Exhibit 7). They testified that the insurance for health and dental cost about \$260.00 monthly. (Appellant's Testimony). Appellant further testified that by September they could no longer afford to pay the health insurance premiums because of fluctuating work hours. (Appellant's Testimony).

Appellant's 2019 monthly living expenses totaled \$1,578.00 or \$18,936.00 annually. Appellant did not testify to any unusual expenses, eviction notices or utility shut off notices during the year. (Appellant's Testimony). Appellant's AGI was \$55,284.00. Appellant's living expenses totaled \$1,578.00 monthly or \$18,936.00 annually. Subtracting that amount from Appellant's AGI leaves \$36,348.00.

According to Table 3 of Schedule HC for 2019, Appellant could afford to pay \$368.56 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 30, living in Hampden County, could have purchased private market health insurance for \$257.00 per month. (Table 4, Schedule HC for 2019). Appellant testified that the cost of their subsidized insurance premiums was \$260.00 monthly. This amount was affordable to Appellant according to Table 3 of Schedule HC for 2019. Multiplying \$260.00 times twelve months equals \$3,120.00 annually. Subtracting that amount from \$36,348.00 leaves \$33,228.00.

I note, however, that Appellant's work hours fluctuated and that they could not afford to pay insurance premiums after September 2019. (Appellant's Testimony, which I credit). I also note that Appellant was unemployed for 3.5 months in 2020 because of the pandemic and is employed part-time currently. Thus, I conclude that Appellant has demonstrated they would suffer financial hardship if they had paid insurance premiums for October through December 2019. (956 CMR 6.08). Appellant testified that they are enrolled in coverage for 2021. (Appellant's Testimony).

I note that this is the third consecutive year that Appellant has had tax penalties assessed. (Exhibits 6 & 7). By now, Appellant should be well aware of the requirements of the individual mandate and the consequences for not enrolling in MCC-compliant health insurance. If their financial circumstances change substantially during 2021 they are encouraged to contact the Connector to report those changed financial circumstances and to explore options for different coverage, if any, rather than stop paying premiums.²

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

PENALTY ASSESSED

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

² The Appellant was informed that the Connector open enrollment period had been extended until March 23, 2021 at the time of their hearing. Since then, the open enrollment period has been further extended until May 23, 2021. Appellant is encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change substantially.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1092

Appeal Decision: The penalty is overturned in full.
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 21, 2021
Decision Date: February 15, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone on January 21, 2021. The procedures to be followed during the hearing were reviewed with the appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Appeal Case Information from Schedule HC. (1 page).
- Exhibit 2: Vacating Dismissal with Appellant's insurance card and 2019 1095-C. (2 PP).
- Exhibit 3: Health Connector's Notice of Hearing dated 12/21/2020 (2 PP).

The record was left open until February 11, 2021 for the Appellant to submit documentation confirming Coverage under his Mother's Employer Health Insurance plan.

- Exhibit 4: Group Insurance Health Insurance Card reflecting coverage with correspondence from Health Insurer dated 2/1/2012 confirming the Appellant's coverage in 2019. (4 PP).

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant, who filed a 2019 Massachusetts tax return reported he was single with zero dependents, was age 24 in 2019, and lived in Barnstable County. (Exhibit 1, Testimony of Appellant).
2. The Appellant did have health insurance in 2019 through his Mother's Employer as reflected on the Appellant's 1095-C. (Exhibit 2, Testimony of Appellant).

3. The Appellant's Federal Adjusted Gross Income for 2019 was \$33,646(Exhibit 1).
4. The Appellant has been assessed a tax penalty for twelve (12) months in 2019. (Exhibit 1).
5. According to Table 3 Appellant could have afforded \$140.19 per month for health insurance in 2019. According to Table 4 Appellant could have purchased an individual insurance plan for \$257.00 per month. (Testimony of Appellant).
6. Private insurance was not affordable to the Appellant in in 2019. (Exhibit 1).
7. In addition to the foregoing, I take administrative notice of the 2019 Schedule HC Instructions and Worksheets, available at <http://www.mass.gov.dor/docs/dor/health-care/2019>, and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2019 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant did not submit grounds with his appeal where the matter was originally dismissed but vacated. The Appellant did file correspondence in support of his appeal and testified that he was insured through his Mother's Employer Plan. (See Exhibit 2).

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

The Appellant credibly testified, and the evidence provided by the Appellant established that he did have health insurance for 2019 through his Mother's employer sponsored insurance. The Appellant produced an insurance card, correspondence from Insurer that he was covered, as well as a 2019 1095-C which reflected that he was covered under his Mother's health insurance plan. (Testimony, Exhibits 2 and 4).

Based upon the facts summarized above, I determine that the Appellant is not subject to a penalty because he did have health insurance. It is concluded that the Appellant established through substantial and credible evidence that he had health insurance.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

ADDENDUM

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1107

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 26, 2021

Decision Date: February 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on January 26 2021.

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

Exhibit 1: Hearing Notice Dated December 21, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (2 pages)

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

Exhibit 5: South Shore Health Receipts (1 page)

Exhibit 6: Health Express doctor's notes, 10/22/19. (1 page)

Exhibit 7: MC CVS Pharmacy Prescription receipts. (4 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 57 years old in September 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$31,586.00. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2). The Appellant filed an appeal of that assessment in August 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$31,586.00, could afford to pay \$131.60 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 57, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.
8. Employer-sponsored insurance was offered to the Appellant at a cost of about \$82.80 per month. (Appellant's Testimony). According to Table 3 of Schedule HC for 2019, employer-sponsored insurance was affordable to Appellant.
9. The Appellant was not eligible for ConnectorCare coverage in 2019 because although their adjusted gross income of \$31,586.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2), affordable employer-sponsored insurance was available to them.

10. Appellant testified that they changed jobs in late 2018 when they became a nursing assistant. (Appellant's Testimony). Appellant earned about \$13.00 per hour in their new job.
11. Appellant testified they received paperwork in the mail from their new employer and believed they had completed the forms to enroll in the new employer's health insurance. Appellant had been overwhelmed and found all the paperwork confusing. (Appellant's Testimony, which I credit). Thereafter, when they did not receive an insurance card or other information, they contacted the human resources department and learned it had no record of Appellant's signed paperwork. (Appellant's Testimony). By that time, open enrollment had passed and would not occur again until November 2019 for 2020. (Appellant's Testimony, which I credit).
12. The Appellant did not understand the health connector or private insurance marketplaces. (Appellant's Testimony).
13. Appellant's 2019 monthly living expenses of \$1,860.00 included: Rent - \$1200.00, Gas - \$75.00, Phone - \$75.00, Electricity - \$100.00, Cable - \$150.00, Car insurance - \$100.00, Food - \$100.00, Credit card debt - \$76.00. (Appellant's Testimony). Additionally they had special expenses of \$600.00 in connection with purchase of a used car and \$1,598.34 for payment of out of pocket medical expenses.
14. Appellant received shut off notices for electricity and gas during 2019. Additionally, they received debt collection notices during the year. (Appellant's Testimony, which I credit).
15. Appellant currently has health insurance coverage. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant appeals the assessed tax penalty of twelve (12) months based on financial hardship. (Appellant's Testimony and Exhibit 3).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$31,586.00, could afford to pay \$131.60 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 57, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.

Employer-sponsored insurance was offered to the Appellant at a cost of about \$82.80 per month. (Appellant's Testimony). According to Table 3 of Schedule HC for 2019, employer-sponsored insurance was affordable to Appellant.

The Appellant was not eligible for ConnectorCare coverage in 2019 because although their adjusted gross income of \$31,586.00 was less than 300% of the Federal poverty level, which was \$36,420.00 in 2019 (Schedule HC, Table 2), affordable employer-sponsored insurance was available to them.

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

Based on their 2019 monthly living expenses of \$1,860.00, Appellant's annual living expenses were \$22,320.00. Additionally they had special expenses of \$600.00 in connection with purchase of a used car and \$1,598.34 for payment of out of pocket medical expenses. (Appellant's Testimony and Exhibit 4). Their 2019 AGI was \$31,586.00. Appellant received shut off notices for gas and electricity and debt collection notices for credit card debt. (Appellant's Testimony, which I find credible).

Based on the totality of the circumstances and evidence contained in this administrative record, I conclude that paying for health insurance premiums in 2019 would have caused Appellant to experience a financial hardship. 956 CMR 6.08(3). Thus, I conclude that their assessed penalty of twelve months should be waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.²

² The Appellant was informed that the Connector open enrollment period had been extended until March 23, 2021 at the time of their hearing. Since then, the open enrollment period has been

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

further extended until May 23, 2021. Appellant is encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1109

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 26, 2021

Decision Date: February 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer (Appellant Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2019 appeared at the hearing, which was held by telephone on January 26, 2021. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did not appear at the hearing on that date. The Primary Taxpayer testified that they were authorize to testify on behalf of their spouse.

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

Exhibit 1: Hearing Notice dated December 21, 2020 (2 pages)

Exhibit 2: Appeal Case Info. from Sch. For HC 2019, 10/9/20 (1 page)

Exhibit 3: Appeal Case Info. from Sch. For HC 2019, 12/21/20 (1 page)

Exhibit 4: Statement of Grounds for Appeal/ Appellant's Letter, 10/7/20 (10 pages)

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

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 34 years old in April 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person filing jointly with two dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 31 years old in July 2019. (Exhibit 2).
3. The Appellants lived in Essex County, MA in 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$112,942.00. (Exhibit 2).
5. The Primary Taxpayer and Appellant Spouse did not have health insurance during eight (8) months of 2019 (May through December) according to Appeal Information from Schedule HC for 2019. (Exhibit 2).
6. The Primary Taxpayer and Appellant Spouse each were assessed a tax penalty of five (5) months for tax year 2019. (Exhibit 2)
7. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two dependents claimed, with an annual adjusted gross income of \$112,942.00, could afford to pay \$752.95 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer and Appellant Spouse, ages 34 and 31 years, respectively, living in Essex County, could have purchased private market health insurance for \$713.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Appellants in 2019.
9. The Primary Taxpayer's employer offered health insurance at a cost of about \$1,300.00 per month in 2019. (Appellant's Testimony). That insurance was not affordable to the Primary Taxpayer, who could afford to pay \$752.95 per month according to Table 4, of Schedule HC for 2019. Thus, affordable employer-sponsored health insurance was not available to the Appellants during 2019.
10. The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$112,942.00 was greater than the Federal poverty level of \$75,300.00 for a family of four. (Schedule HC for 2019).

11. Appellant Spouse suffered a serious accident in 2018 that caused them to require medical care over much of the next two years including during 2019. (Appellant's Testimony and Exhibit 4).
12. Appellants also had a second newborn child to care for during this time, in addition to a young toddler. (Appellant's Testimony).
13. The Primary Taxpayer paid for health insurance through their employer during the first four months of 2019 (January through April). (Appellant's Testimony and Exhibit 2). However, given mounting bills for their mortgage, child care, growing credit card debit and other bare living necessities, Appellant could no longer afford to pay the high \$1,300.00 premium for their employer's insurance coverage. (Appellant's Testimony, which I credit).
14. Appellants were operating in crisis mode at this time and did not know about the private marketplace or Health Connector marketplace to seek alternative health insurance coverage. (Primary Taxpayer's Testimony, which I credit.)
15. Appellant Spouse eventually recovered, and Appellants joined a debt relief program and are now almost debt-free. (Primary Taxpayer's Testimony).
16. The Primary Taxpayer has now purchased family health insurance through the private marketplace at a cost of about \$750.00 per month and the family currently has insurance coverage. (Appellant's Testimony).
17. The Appellants' 2019 monthly pre-tax living expenses of \$5,816.00 included: Mortgage - \$1,900.00, Heat \$350.00, Electricity - \$275.00, A.C. - \$150.00, Car payments - \$525.00, Car insurance - \$125.00, Gas, \$416.00, Phone - \$100.00, Food - \$500.00, Credit card debt - \$350.00, Debt relief program - \$800.00, Family loans - \$300.00. Additionally, Appellants had to pay out-of-pocket medical expenses.
18. Appellants received shut off notices from National Grid during 2019. (Primary Taxpayer's Testimony, which I credit).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellants each were assessed a tax penalty of five (5) months for tax year 2019. (Exhibit 2)

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

In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with two dependents claimed, with an annual adjusted gross income of \$112,942.00, could afford to pay \$752.95 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer and Appellant Spouse, ages 34 and 31 years, respectively, living in Essex County, could have purchased private market health insurance for \$713.00 per month. (Table 4, Schedule HC for 2019). Thus, affordable private insurance was available to the Appellants in 2019.

The Primary Taxpayer's employer offered health insurance at a cost of about \$1,300.00 per month in 2019. (Appellant's Testimony). That insurance was not affordable to the Primary Taxpayer, who could afford to pay \$752.95 per month according to Table 4, of Schedule HC for 2019. Thus, affordable employer-sponsored health insurance was not available to the Appellants during 2019.

The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$112,942.00 was greater than the Federal poverty level of \$75,300.00 for a family of four. (Schedule HC for 2019).

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

Appellant Spouse suffered a serious accident in 2018 that caused them to require medical care over much of the next two years including during 2019. (Appellant's Testimony and Exhibit 4). Appellants also had a second newborn child to care for during this time, in addition to a young toddler. (Appellant's Testimony).

The Primary Taxpayer paid for health insurance through their employer during the first four months of 2019 (January through April). (Appellant's Testimony and Exhibit 2). However, given mounting bills for their mortgage, child care, growing credit card debit and other bare living necessities, Appellant could no longer afford to pay the high \$1,300.00 premium for their employer's insurance coverage. (Appellant's Testimony, which I credit). Appellants were operating in crisis mode at this time and did not know about the private marketplace or Health Connector marketplace to seek alternative health insurance coverage. (Primary Taxpayer's Testimony).

Appellants had monthly living expenses of \$5,816.00 or about \$70,000.00 annually. (Primary Taxpayer's Testimony). Additionally, they had to pay out-of-pocket medical expenses. Primary

Taxpayer's Testimony). Appellants received shut off notices from National Grid during 2019. (Primary Taxpayer's Testimony, which I credit). Appellants currently have health insurance coverage.

Based on all the evidence and the totality of the circumstances in this administrative record, the Primary Taxpayer has demonstrated that the cost of purchasing health insurance during 2019 would have created a financial hardship that would have caused deprivation of basic living necessities for their family of four. See 956 CMR 6.08 (1) & (3).

Accordingly, the five-month penalty for each Appellant is waived entirely.

Appellants should note that the waiver of their penalty is based upon facts that I have determined to be true in 2019. Appellants' should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.²

PENALTY ASSESSED

Appellant Primary Taxpayer:

No. of Months Appealed: 5 No. of Months Assessed: 0

Appellant Spouse:

No. of Months Appealed: 5 No. of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

² The Primary Taxpayer was advised that the Health Connector's open enrollment period at the time of the hearing extended through January 23, 2021, and was further advised that if their circumstances change, to contact a Customer Service Representative at 1-877-623-6765 to explore coverage options for 2021 or to apply or amend their application through the Connector website at <https://www.mahealthconnector.org>. Since Appellants' hearing, the Connector open enrollment period has been extended until May 23, 2021.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1110

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 26, 2021

Decision Date: February 17, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant listed as the Primary Taxpayer (Primary Taxpayer) on the Appeal Case Information from Schedule HC for 2019 appeared at the hearing, which was held by telephone on January 26, 2021. The Appellant listed as the Primary Taxpayer's Spouse (Appellant Spouse) did not appear at the hearing on that date. The Primary Taxpayer testified they were authorized to speak for their spouse. (Appellant's Testimony).

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

Exhibit 1: Hearing Notice dated December 21, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (2 pages)

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

Exhibit 5: E.V. Form 1095-C for 2019 (1 page)

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

Exhibit 6: National Grid Bill (1 page)

Exhibit 7: U-Haul Rental Equipment (3 pages)

Exhibit 8: PODS Enterprise incl. Rental Agreement. (5 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Primary Taxpayer turned 58 years old in November 2019. The Primary Taxpayer filed their Federal Income Tax Return as a married person filing jointly with no dependents claimed. (Exhibit 2).
2. The Appellant Spouse turned 57 years old in October 2019. (Exhibit 2).
3. The Appellants lived in Essex County, MA from January through June 2019. (Exhibit 2).
4. The Appellants' Federal Adjusted Gross Income for 2019 was \$70,500.00. (Exhibit 2).
5. The Appellants' did not have health insurance during any months of tax year 2019 according to Appeal Information from Schedule HC for 2019. (Exhibit 2).
6. The Primary Taxpayer was assessed a tax penalty of three (3) months according to Appeal Information from Schedule HC for 2019. (Exhibit 2).
7. The Appellant Spouse was not assessed a tax penalty according to Schedule HC for 2019. (Exhibit 2).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$70,500.00, could afford to pay \$470.00 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 58, living in Essex County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Primary Taxpayer in 2019.
10. The Primary Taxpayer's employer offered them health insurance at a cost of about \$120.00 per month. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was

available to the Primary Taxpayer during 2019 according to Table 4 of Schedule HC for 2019.

11. The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$70,500.00 was greater than the Federal poverty level of \$49,380.00 for a family of two. (Schedule HC for 2019).
12. Appellants decided to move from Massachusetts to Mobile, Alabama in order to be closer to their daughter and grandchildren after the Primary Taxpayer's mother, who lived in Massachusetts, died in 2018. The Primary Taxpayer planned to work remotely from Alabama. (Primary Taxpayer's Testimony, which I credit.)
13. While Appellants were in the midst of planning their move, the Primary Taxpayer, who was the sole family breadwinner, was unexpectedly laid off from their job in May 2019. (Primary Taxpayer's Testimony).
14. The Primary Taxpayer began collecting unemployment insurance after their layoff. (Primary Taxpayer's Testimony).
15. The Primary Taxpayer's layoff from their job hastened Appellants' decision to move to Alabama. They arranged to move at the end of June 2019. (Primary Taxpayer's Testimony).
16. The Primary Taxpayer received health insurance through their employer from January through May 2019. (Primary Taxpayer's Testimony and Exhibit 5.)
17. Appellant Spouse received health insurance through a federal government-subsidized program throughout each month of 2019. (Primary Taxpayer's Testimony, which I credit.).
18. The Appellants incurred substantial costs of about \$5,000.00 in connection with their move, including moving expenses, renting a moving POD and a U-Haul van trailer to move furniture, and driving to Alabama. (Primary Taxpayer's Testimony).
19. The Primary Taxpayer was overwhelmed with losing their job, moving arrangements and not having enough money to cover their living and moving expenses and to pay a health insurance premium for a single month, June 2019. (Primary Taxpayer's Testimony, which I credit).
20. Appellants' 2019 monthly living expenses of \$2,245.00 included: Rent - \$1,350.00, Phone - \$80.00, Electricity - \$120.00, Food - \$300.00, Car lease payment - \$110.00, Car insurance - \$140.00, Gas - \$25.00, Phone - \$80.00, Cable/internet - \$130.00, Food - \$200.00. (Primary Taxpayer's Testimony). Additionally, Appellants had special expenses of about \$5,000.00 for moving expenses during 2019. (Primary Taxpayer's Testimony and Exhibits 4, 7 & 8).
21. The Primary Taxpayer also received a final bill for National Grid services in the amount of \$135.49 after they had moved. (Exhibit 6).

22. A tax preparer in Alabama prepared Appellants' 2019 taxes. The tax preparer apparently was not familiar with Massachusetts law and completing the Massachusetts Schedule HC for 2019. (Taxpayer's Testimony, which I credit).
23. The Primary Taxpayer has health insurance coverage in Alabama, and the Appellant Spouse continues to receive their federal government-subsidized insurance coverage.

ANALYSIS AND CONCLUSIONS OF LAW

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

The Primary Taxpayer was assessed a tax penalty of three (3) months according to Appeal Information from Schedule HC for 2019. (Exhibit 2). The Appellant Spouse was not assessed a tax penalty according to the same information. (Exhibit 2).

The Appellant Spouse appeals their tax penalty assessment of three (3) months on the ground of not living in Massachusetts during a portion of their period of uninsurance and based on financial hardship. (Taxpayer's Testimony and Exhibits 3, 4, 6-8).

As an initial matter, I conclude that the Primary Taxpayer did have health insurance coverage in Massachusetts from January through May 2019. (Exhibit 5 and Primary Taxpayer's Testimony). I further conclude that the Primary Taxpayer moved out of state at the end of June 2019. (Primary Taxpayer's Testimony and Exhibit 6). Thus, the Primary Taxpayer was uninsured during only one month of their residency in Massachusetts during 2019 (June), not three (3) months as the Schedule HC for 2019 shows. A tax preparer in Alabama prepared Appellants' 2019 taxes. The tax preparer apparently was not familiar with completing the Massachusetts Schedule HC for 2019. (Taxpayer's Testimony, which I credit).

I conclude that the Appellant Spouse had health insurance coverage through a federally-subsidized program during each month of 2019. (Primary Taxpayer's Testimony). I further conclude that the Schedule HC for 2019 correctly shows that Appellant Spouse should not have been assessed a tax penalty for the 2019 tax year.

To determine if the Primary Taxpayer's one-month penalty should be waived in whole or in part, there must be an evaluation of whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through private

insurance, or through a government-sponsored program. If affordable insurance was available, it must be determined if such insurance was not affordable to the Appellant because the Appellant experienced a financial hardship as defined in 956 CMR 6.08.

In accordance with Table 3 of Schedule HC for 2019, the Primary Taxpayer filing the Federal tax return as a married person, filing jointly, with no dependents claimed, with an annual adjusted gross income of \$70,500.00, could afford to pay \$470.00 per month for government-sponsored health insurance. In accordance with Table 4, the Primary Taxpayer, age 58, living in Essex County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was affordable for the Primary Taxpayer in 2019.

The Primary Taxpayer's employer offered health insurance at a cost of about \$120.00 per month. (Appellant's Testimony). Thus, affordable employer-sponsored insurance was available to the Primary Taxpayer during 2019 according to Table 4 of Schedule HC for 2019.

The Appellants were not eligible for government-subsidized ConnectorCare coverage in 2019 because their Federal Adjusted Gross Income of \$70,500.00 was greater than the Federal poverty level of \$49,380.00 for a family of two. (Schedule HC for 2019).

Appellants decided to move from Massachusetts to Mobile, Alabama in order to be closer to their daughter and grandchildren after the Primary Taxpayer's mother, who lived in Massachusetts, died in 2018. The Primary Taxpayer planned to work remotely from Alabama. (Primary Taxpayer's Testimony). While Appellants were in the midst of planning their move, the Primary Taxpayer was unexpectedly laid off from their job in May 2019. (Primary Taxpayer's Testimony). The Primary Taxpayer began collecting unemployment insurance after their layoff. (Primary Taxpayer's Testimony). The Primary Taxpayer's layoff from their job hastened Appellants' decision to move to Alabama. They arranged to move at the end of June 2019. (Primary Taxpayer's Testimony).

Appellants had monthly living expenses of \$2,245.00 or 26,900.00 annually while living in Massachusetts. During this time, the Primary Taxpayer and sole breadwinner became unemployed. At the same time, he Appellants incurred substantial costs in connection with their move, including moving expenses, renting a moving POD and a U-Haul van trailer to move furniture and driving to Alabama. (Primary Taxpayer's Testimony). They estimated the costs to be about five thousand dollars (\$5,000). The Primary Taxpayer was overwhelmed with losing their job, moving arrangements and not having enough money to cover their living and moving expenses and to pay health insurance premiums for a single month, June 2019. (Primary Taxpayer's Testimony, which I credit).

Based on the totality of the circumstances and the evidence contained in this administrative record, I conclude that the Primary Taxpayer has demonstrated financial hardship. 956 CMR 6.08. Moreover, they were uninsured during only one month during their residency in Massachusetts, just prior to moving out of state. The Primary Taxpayer has health insurance coverage in Alabama, and the Appellant Spouse continues to receive their federal government-subsidized insurance coverage.

For all these reasons, the Primary Taxpayer's three-month penalty is waived entirely.

PENALTY ASSESSED

Appellant Primary Taxpayer:

No. of Months Appealed: 3 No. of Months Assessed: 0

Appellant Spouse:

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1111

Appeal Decision: Appeal Approved

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 26, 2021

Decision Date: February 16, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD¹

The Appellant appeared at the hearing, which was held by telephone, on January 26, 2021.

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

Exhibit 1: Hearing Notice Dated December 21, 2020 (2 pages)

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

Exhibit 3: Statement of Grounds for Appeal (2 pages)

Exhibit 4: Eversource Final Notice of Termination, 12/9/19 (1 page)

Exhibit 5: Eversource Final Notice of Termination, 9/30/19 (1 page)

Exhibit 6: Eversource Shutoff Notice, 6/28/19 (1 page)

Exhibit 7: Eversource Shutoff Notice, 6/4/19 (1 page)

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

Exhibit 8: Eversource Final Notice of Termination, 3/4/19 (1 page)

Exhibit 9: Eversource Final Notice of Termination, 8/28/19 (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant turned 55 years old in December 2019. The Appellant filed their Federal Income Tax Return as a single individual, with no dependents claimed. (Exhibit 2).
2. The Appellant lived in Plymouth County, MA in 2019. (Exhibit 2 and Appellant's Testimony).
3. The Appellant's Federal Adjusted Gross Income (AGI) for 2019 was \$56,432.00. (Exhibit 2).
4. The Appellant did not have health insurance during any months of tax year 2019 according to Appeal Case Information from Schedule HC for 2019. (Exhibit 2).
5. The Appellant has been assessed a twelve (12)-month tax penalty for 2019. (Exhibit 2). The Appellant filed an appeal of that assessment in December 2020. (Exhibits 3 and Appellant's Testimony).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 of the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheet. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$56,432.00, could afford to pay \$376.21 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 55, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.
8. The Appellant's employer did not offer health insurance during 2019. (Appellant's Testimony).
9. The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$56,432.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

10. Appellant received several Eversource Shutoff and Final Termination Notices during 2019. (Appellant's Testimony and Exhibits 4-9)
11. Appellant's 2019 monthly living expenses of \$3,328.00 included: Mortgage - \$1,427.00, Heat - \$120.00, Electricity - \$220.00, Car insurance - \$72.00, Gas - \$150.00, Phone - \$52.00, Internet/cable - \$225.00, Food - \$450.00, Propane/hot water - \$110.00, Rubbish - \$25.00, Clothing & miscellaneous - \$120.00, Loan - \$292.00, and Credit card debit - \$65.00. (Appellant's Testimony).
12. The Appellant testified that they currently have health insurance coverage. (Appellant's Testimony).

ANALYSIS AND CONCLUSIONS OF LAW

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

The Appellant appeals the assessed tax penalty of twelve (12) months based on having received several Eversource shutoff and termination notices during 2019. (Appellant's Testimony and Exhibits 3-9).

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

In accordance with Table 3 of Schedule HC for 2019, the Appellant filing the Federal tax return as a single individual, with no dependents claimed, with an annual adjusted gross income of \$56,432.00, could afford to pay \$376.21 per month for government-sponsored health insurance. In accordance with Table 4, the Appellant, age 55, living in Plymouth County, could have purchased private market health insurance for \$418.00 per month. (Table 4, Schedule HC for 2019). Thus, private insurance was not affordable for the Appellant in 2019.

The Appellant's employer did not offer health insurance during 2019. (Appellant's Testimony). Thus, employer-sponsored insurance was not available to Appellant during tax year 2019.

The Appellant was not eligible for ConnectorCare coverage in 2019 because their adjusted gross income of \$56,432.00 was more than 300% of the Federal poverty level, which was \$36,420.00 in 2019. (Schedule HC, Table 2).

The Appellant had no access to affordable health insurance coverage during 2019. No affordable coverage was available to them through employment, the private non-group market and through ConnectorCare. There is no evidence in the record that the Appellant had access to any other government-sponsored programs.

Since no affordable coverage was available, the Appellant's 12-month penalty is waived in its entirety.

Even if affordable coverage had been available, the Appellant's penalty would be waived because of financial hardship. See 956 CMR 6.08(1)(b). They received several Eversource shutoff and termination notices during 2019. See 956 CMR 6.08(1)(b).

Thus, both because no affordable insurance was available to Appellant and because they demonstrated financial hardship, I conclude that Appellant's assessed 12-month penalty should be waived entirely.

The Appellant should note that the waiver of their penalty is based upon facts that I have determined to be true in 2019. The Appellant should not assume that a similar determination will be made for subsequent tax years should they again be assessed a tax penalty for failure to have health insurance in Massachusetts, as the individual mandate requires.²

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

² The Appellant was informed that the Connector open enrollment period had been extended until March 23, 2021 at the time of their hearing. Since then, the open enrollment period has been further extended until May 23, 2021. Appellant is encouraged to contact a Health Connector Customer Service Representative at 1-877-623-6765 or to apply through the Connector website at <https://www.mahealthconnector.org> in order to explore coverage options for 2021 if their financial circumstances change.

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1121

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 3, 2021

Decision Date: February 11, 2021

AUTHORITY

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

JURISDICTION

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

Appellants, a married couple who will be referred to herein as Husband and Wife, appeared at the hearing, which was held by telephone, on February 3, 2021. The hearing record consists of the testimony of Appellants, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹

Exhibit 3: Statement of Grounds (with attachment)

FINDINGS OF FACT

The record shows, and I so find:

1. Husband was 50 and Wife was 43 at the end of 2019.
2. During 2019, Appellants lived in Worcester County.
3. Appellants filed their 2019 Massachusetts taxes as married, filing jointly, with no dependents.
4. Appellants reported on their Massachusetts tax return and confirmed at the hearing that they had adjusted gross income in 2019 of \$125,081. See Exhibit 2
5. Appellants reported in the Schedule HC that they filed with their 2019 state income taxes that they did not have health insurance meeting minimum creditable (MCC) standards from January through July of 2019, but that they did have such insurance from August through December of 2019.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

6. Although Appellants filed their income taxes as having no dependents, Appellants lived with and provided support to Wife's two minor children from a prior marriage. Wife did not claim a tax deduction for those two children, because her ex-husband took that deduction as part of their divorce agreement.
7. At the end of 2018, Husband lost his job and began receiving unemployment. As a result of losing his job, he also lost health insurance for the family.
8. During the period that Husband was unemployed, he was receiving unemployment compensation amounting to about \$700 a week.
9. In August, Husband became employed again. That employer offered health insurance and at that point Appellants enrolled in that insurance for themselves and the two children.
10. During 2019, Wife was self-employed at a business that she was operating. She stated that during the early part of the year, when Husband was unemployed and the family was uninsured, her business was not generating much income.
11. Appellants were paying for half of the tuition cost for each of the minor children, one of whom was in a university and one of whom was in a non-public secondary school.
12. During the period that they were uninsured, Appellants looked for health insurance through the Health Connector. After completing an application, they were notified that they did not qualify for financial assistance in paying for health insurance. They decided that the cost of health insurance, without financial assistance, was too expensive given their circumstances.
13. Appellants were insured at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellants' case, they reported on their Schedule HC that they were each without insurance for seven months in 2019. Because they are entitled to a three-month gap without penalty, they have been assessed a penalty for only four months each.

In order to determine whether to uphold the penalty assessed against Appellants, I must first determine whether they had affordable insurance available to them during the period in 2019 when they were uninsured. In order to do this, I must consider whether Appellants could have obtained affordable

insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the time that they were uninsured, Husband was unemployed and Wife was self-employed. Thus, Appellants could not have obtained employer sponsored insurance in that time period.

Appellants would not have qualified for government subsidized insurance because their annual income was too high. They had adjusted gross income of \$125,081 in 2019. To be eligible for Connector Care, which is government subsidized insurance in Massachusetts, a person's household income must be below 300 percent of the federal poverty limit. See 956 CMR 12.04 (Connector Care eligibility requirements.) The federal poverty limit is a standard set by the federal government annually for purposes of determining eligibility for a number of government programs. It is based on both income and household size. Because Appellants did not claim dependents, they were considered a household of two persons for purposes of determining eligibility for government-subsidized insurance. In 2019, 300 percent of the federal poverty for a household of two persons was \$49,380. Thus, Appellants' income was too high to qualify them for government-subsidized insurance.

Finally, I must determine whether Appellants could have afforded unsubsidized insurance purchased on the non-group market. To do this, I apply state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Those standards set a percentage of income that a household can afford to spend for insurance, based on income and household size. The affordability standards are reprinted in Table 3 of the instructions to the 2019 Schedule HC. Again, for purposes of using these standards, Appellants would be considered a household of two because they did not take any dependents. Under those standards, persons like Appellants who were in a household of two persons and had an income of \$125,081 were deemed able to afford 8 percent of income for insurance. (The percentage figure would be the same if they were considered a household of four persons.) That figure amounts to \$10,006 annually or \$833 a month. In 2019, persons like Appellants, who lived in Worcester County, were seeking a family plan and had a household in which the oldest member was 50 or older, would have had to pay \$968 a month for insurance. I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC. Thus, the purchase of unsubsidized insurance in the non-group market would have been unaffordable for them.

Because I have found that Appellants did not have the option of obtaining affordable health insurance from any of the three sources of insurance in 2019, I conclude that Appellants should not be subjected to the individual mandate penalty. Based on that conclusion, I am not required to determine if they have established grounds to waive the penalty under the Health Connector's appeals regulations. 956 CMR 6.08(1). Instead I am allowing the appeal and waiving the penalty in full.

PENALTY ASSESSED

Husband: Number of Months Appealed :4___ Number of Months Assessed: 0
Wife: 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 2019.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1122

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 3, 2021

Decision Date: February 11, 2021

AUTHORITY

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

JURISDICTION

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

Appellant appeared at the hearing, which was held by telephone, on February 3, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

Exhibit 1: Health Connector Hearing Notice

Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹

Exhibit 3: Statement of Grounds (with income tax return attached)

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 59 at the end of 2019.
2. During 2019, Appellant lived in Suffolk County.
3. Appellant filed her 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on her Massachusetts tax return and confirmed at the hearing that she had adjusted gross income in 2019 of \$74,541. See Exhibit 2
5. Appellant reported in the Schedule HC that she filed with her 2019 state income taxes that she had health insurance meeting minimum creditable (MCC) standards from January through April of 2019, but that she did not such insurance for the remaining eight months of the year.
6. Appellant was employed at the start of 2019 and obtained health insurance through her job.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

7. However, in April, Appellant was laid off from her work. While unemployed, she obtained unemployment compensation amounting to \$11,925 over the course of the year.
8. In September, she obtained a temporary position. However, as a temporary employee, she was not offered health insurance through that job.
9. While she was unemployed and uninsured, Appellant applied for health insurance through the Health Connector. After submitting her application, she was notified that her income was too high to qualify for financial assistance. She determined that she could not afford to purchase insurance without financial assistance.
10. In addition to normal expenses of living such as rent and utilities, Appellant was paying off student loans in an amount of \$358 a month.
11. At the beginning of 2020, Appellant was offered a full-time position from the employer for whom she had been working as a temporary employee. As a result, she was offered health insurance and she enrolled. She was still enrolled in health insurance at the time of the hearing.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

Further, according to M.G.L. c. 111M, § 2, residents are permitted a 63-day gap between periods of coverage without facing a penalty. Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. In Appellant’s case, she reported on her Schedule HC that she was without insurance for eight months in 2019. Because she was entitled to a three-month gap without penalty, she has been assessed a penalty for only five months.

In order to determine whether to uphold the penalty assessed against Appellant, I must first determine whether she had affordable insurance available to her during the period in 2019 when she was uninsured. In order to do this, I must consider whether Appellant could have obtained affordable insurance from any of the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

During the time that she was uninsured, Appellant was either unemployed or was working in a temporary job that did not offer her insurance. As a result, she could not have obtained employer sponsored insurance in that time period.

Appellant also did not qualify for government-subsidized insurance because her annual income was too high. She had adjusted gross income of \$74,541 in 2019. To be eligible for Connector Care, which is government subsidized insurance in Massachusetts, a person's household income must be below 300 percent of the federal poverty limit. See 956 CMR 12.04 (Connector Care eligibility requirements.) The federal poverty limit is a standard set by the federal government annual for purposes of determining eligibility for a number of government programs. It is based on both income and household size. In 2019, 300 percent of the federal poverty for a household of one person, like Appellant's, was \$36,420. Thus, Appellants' income was too high to qualify for government-subsidized insurance.

Finally, I must determine whether Appellant could have afforded unsubsidized insurance purchased on the non-group market. To do this, I apply state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Those standards set a percentage of income that a household can afford to spend for insurance, based on income and household size. The affordability standards are reprinted in Table 3 of the instructions to the 2019 Schedule HC. Under those standards, a person like Appellant who was in a household of one person and had an income of \$74,541 was deemed able to afford 8 percent of income for insurance. That figure amounts to \$56,963 annually or \$496 a month. In 2019, a person like Appellant who lived in Suffolk County and was 59 years of age could have obtained insurance for a monthly premium of \$418. I obtain the premium figure from Table 4 to the instructions for the 2019 Schedule HC. Thus, the purchase of unsubsidized insurance in the non-group market was affordable for Appellant applying state affordability standards.

Because I have found that Appellants did have the option of obtaining affordable health insurance in 2019, I must determine whether she was stated grounds to waive the penalty under the Health Connector's appeals regulations. 956 CMR 6.08(1). I determine that she does. It would be inequitable to consider Appellant's annual income to determine whether she could have afforded insurance during the period of time that she was uninsured, because her income during that period was significantly lower than it had been when she was working at the start of the year. According to the tax returns, which Appellant submitted into evidence, she earned \$42,167 during the first four months of the year or \$10,541 a month. By contrast, in the remaining eight months of the year, her income from unemployment compensation and from her temporary job combined totaled \$33,434, or \$4,179 a month. If this amount were annualized, it would amount to \$50,151; at that amount, using the state affordability standards, Appellant would be deemed able to afford only \$334 a month for insurance. That amount was insufficient to afford unsubsidized insurance in the non-group market. Thus, Appellant has demonstrated financial circumstances that would have made the purchase of insurance a financial hardship. This constitutes grounds to waive the penalty under the governing regulations.

Accordingly, I am allowing the appeal and waiving the penalty in full..

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1123

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

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 3, 2021

Decision Date: February 11, 2021

AUTHORITY

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

JURISDICTION

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

Appellant appeared at the hearing, which was held by telephone, on February 3, 2021. The hearing record consists of the testimony of Appellant, and the following documents, which were admitted into evidence:

- Exhibit 1: Health Connector Hearing Notice
- Exhibit 2: Appeal Case Information sheet containing information from Appellant's Schedule HC¹
- Exhibit 3: Personal statement submitted by Appellant
- Exhibit 4: Appeals decision for 2016 penalty year
- Exhibit 5: Appeals decision for 2018 penalty year

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 54 at the end of 2019.
2. During 2019, Appellant lived in Essex County.
3. Appellant filed his 2019 Massachusetts taxes as single with no dependents.
4. Appellant reported on his Massachusetts tax return and confirmed at the hearing that he had adjusted gross income in 2019 of \$29,143. See Exhibit 2
5. Appellant reported in the Schedule HC that he filed with his 2019 state income taxes that he did not have health insurance meeting minimum creditable (MCC) standards at any point in 2019.

¹ Exhibit 2 is a computer printout continuing information extracted from the Schedule HC that Appellant submitted as part of her 2019 Massachusetts tax return. The Schedule HC is the form on which Massachusetts taxpayers report information relevant to the individual mandate penalty, which is the subject of this appeal.

6. During 2019, Appellant worked on a regular basis for a local health care provider.
7. He was offered health insurance through that employer, but he declined that insurance because he said he didn't want to be limited in the choice of health care providers that he could receive services from.
8. During 2019, Appellant did not apply for health insurance from the Health Connector.
9. Appellant submitted a personal statement listing the regular expenses that he incurred in 2019. See Exhibit 3. These included \$500 monthly for child support, \$400 a month for rent, and other typical expenses. The listed expenses totaled \$1900 a month, which is what Appellant stated he was netting in a month from his employment.
10. Appellant stated that he had lost his job in June of 2020 and was on unemployment since then.
11. Appellant was not insured at the time of the hearing.
12. Appellant stated that the last time he had been insured was in 2008, at which point he had insurance through MassHealth, which is the state's Medicaid agency. He stated that he became disenrolled because he did not complete an annual eligibility re-determination form.
13. Appellant had been assessed a penalty for not having insurance in the past and has appealed that penalty. Decisions for the 2016 and 2018 tax years waived the penalty based on financial hardship. Exhibits 4, 5.

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

ANALYSIS AND CONCLUSIONS OF LAW

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

In order to determine whether to uphold the penalty assessed against Appellant I must first determine whether he had affordable insurance available to him during 2019. In order to do this, I must consider whether Appellant could have obtained affordable insurance from the following three sources: (1) employer sponsored insurance; (2) government-subsidized insurance; or (3) unsubsidized insurance purchased on the non-group market.

Appellant was employed in 2019 and was offered insurance through that employment. He did not know how much the insurance cost. He stated that he declined the insurance because he didn't like the fact that the insurance would have covered his expenses only if he went to certain providers. Without knowing the cost of the insurance, I cannot determine whether that insurance would have been affordable to him.

However, if Appellant did not have affordable insurance from his employer, he would have qualified for government subsidized insurance. Connector Care, which is a program of government subsidized

insurance in Massachusetts, is available to state residents whose household income is below 300% of the federal poverty level and who meet other eligibility requirements, which include citizenship or legal permanent residence in the United States and lack of access to affordable employer subsidized insurance. See 956 CMR 12.04 (Connector Care eligibility requirements.) The federal poverty limit is a standard set by the federal government annually for purposes of determining eligibility for a number of government programs. It is based on both income and household size. In 2019, 300 percent of the federal poverty for a household of one person, like Appellant's, was \$36,420. Thus, Appellants' income was below government-subsidized insurance. Further, I find that Appellant met the citizenship or legal permanent resident requirements because he had received Mass Health in 2008 and earlier; in order to receive Mass Health, which is Medicaid, an individual must also be a citizen or legal permanent resident of the United States. See 130 CMR 504.006.

Thus, I find that Appellant could have obtained insurance either through an affordable employer-sponsored plan or through government-subsidized insurance in 2019. I noted that the same finding was made in the appeal of the 2018 tax year penalty. See Exhibit 5.

Although it is not necessary for the decision, I determine that Appellant could not have afforded unsubsidized insurance purchased on the non-group market. To make this determination, I apply state affordability standards set by the Health Connector board pursuant to M.G.L. c. 111M. Those standards set a percentage of income that a household can afford to spend for insurance, based on income and household size. The affordability standards are reprinted in Table 3 of the instructions to the 2019 Schedule HC. Under those standards, a person like Appellant who was in a household of one person and had an income of \$29,143 was deemed able to afford 4.2% of their income for insurance. In this case that would amount to \$1,224 a year or \$102 a month. In 2019, a person like Appellant who lived in Essex County and was 54 years of age would have had to pay \$406 a month for insurance. Thus, the purchase of unsubsidized insurance in the non-group market was not affordable for Appellant applying state affordability standards.

Because I have found that Appellants did have the option of obtaining affordable health insurance in 2019, I must determine whether he was stated grounds to waive the penalty under the Health Connector's appeals regulations. 956 CMR 6.08(1). I determine that he did. Appellant's income was low. Further, he testified credibly that he had a \$500 monthly child support obligation, which further diminished the amount of money that he had available to meet his necessary expenses. Thus, I conclude that he has demonstrated financial circumstances that would have made the purchase of health insurance a financial hardship.

In making this finding however, I note that if he applied for Connector Care, the premium would be low because the cost of the insurance is based on the person's available income. Given his 2019, Appellant could have obtained insurance for approximately \$102 a month. If his income is lower in 2020 because of his loss of job, then the premium would be even lower. Appellant stated that he has a computer and access to the Internet. An application can be completed and submitted on-line by going to www.mahealthconnector.org or by calling 1-877-623-6765. Appellant has qualified for government-subsidized insurance in the past and he should be able to do so again. He should not count on getting

the penalty waived year after year, and he also should consider the benefits of having health insurance, particularly if he experienced a need for unexpected medical care.

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1147

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 9, 2021

Decision Date: February 17, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 9, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

- Ex. 1—Statement of Grounds for Appeal—2018
- 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 54-years-old, is single, and does not have children. In 2018, she resided in Plymouth County. She had minimum creditable coverage (MCC) health insurance in January, 2018. (Testimony, Ex. 2)
2. Prior to 2018, the appellant believes that she last had health insurance in 2017. She does not believe that she has ever been subject to a penalty for failure to obtain health insurance. (Testimony)
3. The appellant was employed in January, 2018, and had employer health insurance for that month. She was subsequently separated from her position and was unemployed until mid-March when she began to work on a per diem basis for the rest of the year. No employer health insurance was available to her. (Testimony, Exs. 1, 2)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of her 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

4. After she changed jobs, the appellant investigated health insurance options through the Health Connector and determined that the cost was not affordable. (Testimony)
5. The appellant has maintained a health savings account (HSA) since 2016 and used the money in that fund to cover any medical expenses she incurred in 2018. (Testimony)
6. The appellant did not have health insurance in 2019 and relied on the funds in her HSA to cover her medical expenses. (Testimony)
7. The appellant reported an adjusted gross income of \$27,961.00 on her 2018 federal tax return, and reported that she was single with no dependents. (Ex. 2)
8. The appellant lived with her partner in 2018 and paid \$1000.00/month for rent and other household expenses. (Testimony)
9. In 2018, the appellant had regular monthly expenses of approximately \$2041.00 for rent and utilities (\$1000.00), automobile loan (\$599.00), automobile insurance (\$92.00), gasoline (\$100.00) and food (\$250.00). (Testimony, Ex. 1)

In addition to the foregoing, I take administrative notice of the 2018 Schedule HC Instructions and Worksheets, available at [http://www.mass.gov.dor/docs/dor/health-care/2018](http://www.mass.gov/dor/docs/dor/health-care/2018), and in particular, Tables 1-6 which, as discussed below, include the Affordability Schedule and other financial information used in making 2018 individual mandate tax penalty determinations.

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to her during 2018 because the expense of purchasing health insurance would have caused a serious deprivation of food, shelter, clothing or other necessities. She also submitted a letter with her statement in which she stated in part that she became a per diem employee in March after she was separated from her job, and her income was reduced by approximately \$30,000.00 from 2017. She further stated that she had a HSA and used those funds to cover her medical expenses, which were minimal. Finally, she stated that she made very little money in 2018 and would not have been able to cover her regular monthly expenses if she purchased health insurance.

The appellant did not have insurance from February 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 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for eleven months, she was assessed and is appealing a penalty of eight months (i.e. the months of uninsurance less the gap period of three months).

The appellant testified credibly that she was employed in January, 2018, after which she was separated from her position. She testified that she was unemployed until mid-March when she became a per diem employee for the

rest of the year. She testified that she investigated health insurance options through the Health Connector and determined that the cost was not affordable. Finally, she testified that she has maintained a health savings account since 2016 and used those funds to cover any medical expenses that she incurred in 2018.

The evidence provided by the appellant established that her income for 2018, \$27,961.00, was less than 300% of the federal poverty level (FPL), which for 2018 was \$36,180.00 for a single person. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$24,121.00 and \$30,150.00 is deemed to be able to afford a monthly premium of \$97.86 (4.20% of \$27,961/12). Table 4 of the Premium Schedule indicates that a 53-year-old individual (the appellant's age in 2018) in Plymouth County (where the appellant resided in 2018) could have purchased private health insurance for \$411.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2018.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming she met all other eligibility criteria, and for which she would have been subject to a subsidized premium of approximately \$97.86 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

Even though subsidized health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that he experienced a hardship during 2018. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2018 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is sufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that she incurred basic monthly expenses of approximately \$2041.00 in 2018. Although those expenses were less than her regular monthly pre-tax income of approximately \$2330.00, thereby making a subsidized insurance premium of \$97.86 seemingly manageable, the difference of \$289.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that she experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).

The appellant argued in the alternative that since she maintained a HSA that adequately covered her medical expenses, she did not feel it was necessary to obtain health insurance. The appellant is advised that while a HSA is an important addition to insurance coverage and a valuable tax tool, it in no way serves as a substitute for the type of health insurance required by the state. In order to be considered insured and avoid tax penalties, Massachusetts residents must obtain minimum creditable coverage (MCC) which includes some, but not all, of the following benefits:

Coverage for a comprehensive set of services (e.g. doctors' visits, hospital admissions, day surgery, emergency services, mental health and substance abuse, and prescription drug coverage).

- Doctor visits for preventive care, without a deductible.

- A cap on annual deductibles of \$2,000 for an individual and \$4,000 for a family.
- For plans with up-front deductibles or co-insurance on core services, an annual maximum on out-of-pocket spending of no more than the annual limit set by the IRS for high deductible health plans. In 2020, out-of-pocket costs are limited to \$8,150 for an individual plan and \$16,300 for a family plan.
- No caps on total benefits for a particular illness or for a single year.
- No policy that covers only a fixed dollar amount per day or stay in the hospital, with the patient responsible for all other charges.
- For policies that have a separate prescription drug deductible, it cannot exceed \$250 for an individual or \$500 for a family.

For further information on state requirements for MCC health insurance, the appellant is advised to consult [https://www.mass.gov/info-details/health-care-reform-for-individuals#minimum-creditable-coverage-\(mcc\)](https://www.mass.gov/info-details/health-care-reform-for-individuals#minimum-creditable-coverage-(mcc)).

Based upon the totality of the evidence, it is concluded that 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 2018, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 8

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-899

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: November 20, 2020

Decision Date: February 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on November 20, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 11, 2020, for the Appellant to submit documentary evidence with respect to any application he had submitted for 2019 health insurance coverage and any email correspondence he had with the Health Connector or MassHealth about obtaining 2019 health insurance coverage. As no additional evidence was received from the Appellant by December 11, 2020, the record was closed on that date.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 8/5/20 Email to Appeals – Dismissed Appeal (1 page)
- Exhibit 3: Undated Memo, “Healthcare Inconsistency,” to Tax Dept. (1 page)
- Exhibit 4: 12/28/18 Death Certificate for 11/2/18 Death (3 pages)
- Exhibit 5: DOR Vacate Approved – Appeal Status (1 page)
- Exhibit 6: 10/20/20 Hearing Notice (2 pages)
- Exhibit 7: 11/20/20 Open Record Request for any evidence of Appellant applying to MassHealth or the Health Connector for 2019 health insurance coverage (1 page)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant’s filing status for 2019 was Single with no dependents. The Appellant’s federal AGI in 2019 was \$48,675. The Appellant turned twenty-seven years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a five-month penalty on his 2019 income tax return.

3. The Appellant is not alleging that health insurance coverage was unaffordable for him in 2019. (Appellant's testimony)
4. The Appellant did not have health insurance coverage from January 2019 through August 2019. (Exhibit 1)
5. The Appellant was unemployed in January 2019 and at the start of February 2019. (Appellant's testimony)
6. In mid-February 2019, the Appellant began working for an employer under a two-month contract with the possibility of later becoming a full-time employee with benefits. (Exhibit 5; Appellant's testimony)
7. After the Appellant completed the two-month contract, the employer continued offering the Appellant short-term contracts without benefits, until the summer of 2019, when he became a regular employee and qualified for the health insurance coverage offered by his employer. (Appellant's testimony)
8. The Appellant had health insurance coverage through his employer from September 2019 through December 2019. (Exhibit 1; Appellant's testimony)
9. In April 2019, the Appellant had a severe allergic reaction, sought treatment, and was told that he needed to get health insurance coverage. (Appellant's testimony)
10. It was not until August 2019 that the Appellant became a full-time employee and qualified for his employer's health insurance coverage; the Appellant enrolled in the coverage as soon as possible, and the coverage was effective from September through December 2019. (Appellant's testimony)
11. On March 5, 2020, the Appellant tried to log onto the Health Connector website and received a message that he was not able to log on "because you have another active application in our system;" and, if he needed help, that he should call Customer Service at the provided numbers. (Appellant's testimony; Exhibit 5)
12. The Appellant's employer-sponsored health insurance coverage did not take effect until September 2019, and continued through the rest of 2019, for a monthly premium of about \$140. (Appellant's testimony)
13. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage in 2019, since his income was more than \$36,420 for a family size of one.
14. According to Table 3, Affordability, of the Schedule HC 2019, based on his 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$324/monthly for health insurance coverage in 2019.
15. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$257, based on his age and county of residence in 2019.
16. The Appellant could have afforded to pay a monthly premium of \$257 for health insurance coverage in 2019. (Appellant's testimony)

ANALYSIS AND CONCLUSIONS OF LAW

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

As the Appellant had a three-month grace period through March 2019, to obtain health insurance coverage for 2019, and had health insurance coverage through his employer from September 2019 through December 2019, at issue here are the five months from April 2019 through August 2019, when the Appellant failed to have health insurance coverage. Although the Appellant started a new job in February 2019 and hoped to become a regular employee soon and to enroll in the employer-sponsored health insurance coverage offered by his employer to regular employees, the Appellant made no effort to get health insurance coverage in some other manner for the five months at issue. The Appellant certainly knew by April 2019, when his two-month contract ended and his employer did not make him a regular employer, that he would need to find health insurance coverage elsewhere. Had he checked the private market for health insurance coverage, the Appellant would have found health

insurance coverage available to him in 2019 for a monthly premium of \$257, based on his young age. This was much less than the \$357 monthly premium that the 2019 Affordability Tables showed he could afford to pay for coverage in 2019, and the Appellant admitted at hearing that he could have afforded to pay this amount for coverage in 2019.

In addition, the Appellant should have been especially aware in April 2019 of the importance of having health insurance coverage, when he had a serious allergic reaction requiring medical treatment and was advised to get health insurance coverage. Yet, the Appellant provided no documentary evidence at hearing, or in response to the open-record request, to show that he had made any effort during or before that time in 2019 to apply for coverage through the Health Connector or through the private market. Instead, the Appellant simply waited months, until October 2019, for his employer to make him a regular employee and eligible for the employer's health insurance coverage.

Therefore, I conclude that the Appellant has not established any grounds, under 956 CMR 6.08, for not having health insurance coverage in 2019 during the four months from May to August.

Accordingly, the Appellant's five-month penalty for 2019 shall be reduced to a four-month penalty

PENALTY ASSESSED

Number of Months Appealed: 5 Number of Months Assessed: 4

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-925

Appeal Decision: Appeal Denied

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 2, 2020

Decision Date: February 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The Appellant appeared at the hearing, which was held by telephone, on December 2, 2020. The Appellant offered testimony under oath or affirmation. At the end of the hearing, the record was left open until December 30, 2020, and later extended to January 15, 2021, for the Appellant to submit additional evidence. Additional evidence was received on December 31, 2020, and the record was closed.

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

- Exhibit 1: Appeal Case Information from 2019 Schedule HC (1 page)
- Exhibit 2: 8/7/20 Appeal (4 pages)
- Exhibit 3: 11/5/20 Hearing Notice (2 pages)
- Exhibit 4: 7/2019 to 9/2019 Four Invoices for Veterinary Services (4 pages)

FINDINGS OF FACT

The record shows, and I so find:

1. The Appellant's filing status for 2019 was Single with no dependents. The Appellant's federal AGI in 2019 was \$59,192. The Appellant resided in Middlesex County and turned thirty-four years old in 2019. (Exhibit 1)
2. The Appellant appealed from the assessment of a twelve-month penalty on her 2019 income tax return, checking off on the appeal form: "During 2019, you incurred a significant, unexpected increase in essential expenses resulting directly from the consequences of: ...the sudden responsibility for providing full care for...a family member, including a major, extended illness...." (Exhibit 2)
3. In June 2019, the Appellant's dog was diagnosed with cancer and began treatment of the cancer. The treatment continued for two months and cost over \$4,000. (Appellant's testimony; Exhibit 4)

4. On August 27, 2019, a court-ordered approval of a separation agreement issued with respect to the Appellant's marriage. (Appellant's testimony; Exhibit 2)
5. The Appellant's 2019 monthly expenses for basic necessities included: rent, \$1,325; utilities, \$260; phone, \$85; food, \$500; car payment, \$340; gas, \$175; clothing, \$300; IRS payment per Agreement, \$150; and, dog food, \$10, for a total of \$3,145/monthly and \$37,740 for the year. (Appellant's testimony)
6. According to Table 2 of the 2019 Schedule HC Guidelines, the Appellant did not qualify for government-subsidized health insurance coverage, since her income was more than \$36,420 for a family size of one.
7. According to Table 3, Affordability, of the Schedule HC 2019, based on her 2019 AGI and Single with no dependents tax filing status, the Appellant could have afforded to pay up to \$394/monthly for health insurance coverage in 2019.
8. According to Table 4, Premiums, the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$279.

ANALYSIS AND CONCLUSIONS OF LAW

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

The evidence presented at hearing and in response to the open-record request does not support the Appellant's contention that the Appellant's expenses for basic necessities in 2019 plus her extraordinary costs for veterinary care of her dog made health insurance coverage in 2019 unaffordable for her. As the Appellant did not learn until June 2019 that her dog was ill, the expense of treating her dog's illness was not a factor during the first half of 2019 in the Appellant's failure to have coverage. Moreover, even adding the Appellant's \$4,000 cost of caring for her dog during the last half of 2019 to her 2019 basic expenses of \$37,420, the Appellant was left with well over \$15,000 of income to pay for health insurance coverage in 2019. As the Appellant could have purchased health insurance coverage in the private market in 2019 for a monthly premium of \$279 (\$3,348 for the year), the Appellant could have afforded health insurance coverage throughout 2019.

Therefore, I conclude that the Appellant did not experience financial circumstances in 2019 such that the cost of purchasing health insurance coverage would have caused her a serious deprivation of basic necessities, under 956 CMR 6.8.

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

PENALTY ASSESSED

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19994

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 21, 2020

Decision Date: February 3, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on July 28, 2020 with letter in support attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2020 for December 21, 2020 hearing
- Exhibit 4: Appellant's 2019 1099-G
- Exhibit 5: Appellant's two W-02 forms for 2019 and one W-2 for 2018

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 63 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Plymouth County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$37,703 in 2019 (Testimony of Appellant, Exhibits 2, 4, and 5).
4. Appellant was employed in January and February as a store manager. Appellant was laid off and was unemployed for several months. Appellant was able to find some part-time work in May and June, but was then unemployed for the rest of the year. Appellant collected unemployment compensation when he was unemployed (Exhibit 4, Testimony of Appellant).

5. Appellant was offered health insurance through his job in January and February. Appellant had the coverage, but once he was laid off, he was uninsured the rest of the year. At the beginning of 2020, Appellant found employed and obtained health insurance through the job. Appellant was still insured as of the date of this hearing (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a penalty for seven months, June through December, 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$37,703 could afford to pay \$234 per month for health insurance. According to Table 4, Appellant, 63 years old and living in Plymouth County, could have purchased insurance for \$418 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

The appellant has been assessed for a penalty for June through December, 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had health insurance which met the Commonwealth’s minimum creditable coverage standards in January and February, 2019. Since Appellant is entitled to a three-month grace period after losing coverage, the penalty for March through May, 2019 is waived. See the testimony of the appellant which I find to be credible and Exhibit 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$37,703 could afford to pay \$234 per month for health insurance. According to Table 4, Appellant, 63 years old and living in Plymouth County, could have purchased insurance for \$418 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment from June through December, 2019. Appellant was unemployed from March through December, except for some part-time work he found in May and June which being part-time, did not come with benefits. See the testimony of the appellant which I find to be credible, and Exhibits 2, 4.

Appellant was not eligible for coverage through the ConnectorCare program. His annual Federal Adjusted Income was \$37,703, more than the income limit for one person (\$36,420). See Exhibit 2, Table 2 of Schedule HC for 2019 and 956 CMR 12.00 et. seq. There is no evidence in the record that the appellant was a eligible for any other government-sponsored health insurance.

Since the appellant had no access to any affordable health insurance through the individual market, through employment, or through a government-sponsored program, Appellant's penalty is waived. See Massachusetts General Laws, Chapter 111M, Section 2.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19995

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 21, 2020

Decision Date: February 4, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on August 11, 2020

Exhibit 2: Appeal Case Information from Schedule HC 2019

Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2020 for December 21, 2020 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 26 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Norfolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$50,316 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed from January through the end of April, 2019 as a driver. When Appellant was laid off from his job, he was unemployed for about a month. Appellant did not apply for unemployment after he was laid off. After about a month, the appellant got a temporary job with hours that varied. In October, Appellant got a permanent position (Testimony of Appellant).
5. Appellant had health insurance through the Connector from January through April. Appellant lost the coverage because the Connector determined that Appellant's income had increased. The appellant was not offered health insurance through his job until the position became permanent in October. The coverage he offered would not go

into effect until Appellant had been on the job for 90 days. Appellant obtained coverage as of January 1, 2020 (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a penalty for five months, August through December. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$50,316 could afford to pay \$335 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

9. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).

12. Appellant did not receive any shut-off notices for basic utilities in 2019 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$800; heat and electricity-\$0.00; telephone and internet-\$100; food-\$430; car payment-\$220; car insurance-\$200; gas-\$175; clothing-\$100; old credit card debt-\$200 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

The appellant has been assessed for a penalty for August through December, 2019. The appellant has appealed the assessment. Exhibits 1, 2. Appellant had coverage which met the Commonwealth's standards from January through April. Since Appellant is entitled to a three-month grace period after losing coverage, his penalty for May through July, 2019 was waived. See the testimony of the appellant which I find to be credible and Exhibit 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$50,316 could afford to pay \$335 per month for health insurance. According to Table 4, Appellant, 26 years old and living in Norfolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment from August through December, 2019. Appellant had part-time work which did not offer health insurance benefits from June until October when his position became permanent. Appellant was then offered health insurance but coverage did not begin until Appellant had been on the job for 90 days. Appellant obtained coverage as of January 1, 2020. See the testimony of the appellant which I find to be credible, and Exhibit 2.

Appellant was not eligible for the ConnectorCare program. His annual Federal Adjusted Income was \$50,316, more than the income limit for one person (\$36,420). See 956 CMR 12.00 et. seq.

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 had the following expenses for basic necessities in 2019: rent-\$800; heat and electricity-\$0.00; telephone and internet-\$100; food-\$430; car payment-\$220; car insurance-\$200; gas-\$175; clothing-\$100; old credit card debt-\$200. See the testimony of Appellant, which I find to be credible. These expenses came to over \$2,200 a month.

Just as Appellant lost his health insurance because his income had increased, Appellant lost his job. Appellant was then unemployed for about a month and then had a temp job for several months with inconsistent earnings. By the time Appellant got a permanent position with a steady income, Appellant would have been blocked from purchasing health insurance on the individual market. There was no open enrollment period and the appellant had no qualifying event which would have allowed him to purchase coverage outside of the open enrollment period within the past 60 days. See the testimony of the appellant which I find to be credible. See also 45 CFR 155.410 and 420 which provide for open enrollment periods during which individuals may enroll in health care plans and for special open enrollment periods when individuals may enroll outside of the open enrollment period if they have a qualifying life event such as losing health insurance coverage.

Based upon these facts summarized above, I determine that the appellant had a financial hardship such that health insurance was unaffordable for him. The cost of purchasing coverage would have caused him to experience a serious deprivation of basic necessities. When Appellant would have been eligible to purchase coverage, he was either unemployed or employed part-time. At the same time, Appellant's expenses remained consistent. See 956

CMR 6.08(1)(e) and 956 CMR 6.08(3) which allows us to take into account other financial issues raised by the appellant during the hearing, such as unemployment and inconsistent earnings.

Appellant's penalty is waived.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19996

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 21, 2020

Decision Date: February 5, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on August 9, 2020 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2020 for December 21, 2020 hearing
- Exhibit 4: Appellant's car insurance bill, October, 2019
- Exhibit 5: Appellant's internet bill, August, 2020
- Exhibit 6: Appellant's electric and gas bills for 2019
- Exhibit 7: Appellant's water and sewer bill, December, 2019
- Exhibit 8: Appellant's car loan bill, 2020
- Exhibit 9: Appellant's credit card bills, 2020
- Exhibit 10: Appellant's lease, 2016-2017
- Exhibit 11: Appellant's veterinarian bill, June, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 38 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Hampden County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$46,406 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant had two part-time jobs in 2019. One involved selling self-published books. Appellant's income from this work was very inconsistent. At Appellant's other part-time job, Appellant worked two days a week, from four

to eight hours a day at \$11.00 an hour. Appellant also had a full-time job working in a store (Testimony of Appellant, Exhibit 1 attachment)).

5. Appellant was offered health insurance at his full-time job. The appellant missed the open enrollment period for 2019 which was in October, 2018. The coverage cost over \$200 a month and the appellant felt he could not afford the expense. Appellant was uninsured all year. As of the date of this hearing, Appellant had obtained coverage (Testimony of Appellant, Exhibit 2).

6. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$46,406 could afford to pay \$293 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Hampden County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

9. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

10. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant received two shut-off notices for electricity during 2019 (Testimony of Appellant).

12. Appellant did not fall more than 30 days behind in rent payments during 2019 (Testimony of Appellant).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$750; water/sewer-\$33; telephone/internet-\$198; food-\$710; clothing-\$25; car payments-\$250; car insurance-\$80; gas-\$80. Appellant also paid the Internal Revenue Service \$110 a month and paid \$210 a month for old credit card debt. In addition, the appellant had to spend \$2,000 during 2019 to replace personal property that was damaged by mold in his apartment (Testimony of Appellant, Exhibits 4, 6, and 7).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector's regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant was uninsured all of 2019. He has been assessed a penalty for twelve months. Appellant has appealed the assessment. See Exhibits 1 and 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$46,406 could afford to pay \$293 per month for health insurance. According to Table 4, Appellant, 38 years old and living in Hampden County, could have purchased insurance for \$286 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant.

According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

Appellant had no access to health insurance through employment. Appellant had three jobs; only one offered health insurance. Appellant missed the open enrollment period for 2019 coverage, and was unable to obtain coverage once the period was past. See the testimony of the appellant which I find to be credible.

Since there was affordable health insurance available to the appellant through the individual market, we need to determine if Appellant's penalty can be waived because Appellant experienced a financial hardship as defined in 956 CMR 6.08 (1) through (3).

Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$750; water/sewer-\$33; telephone/internet-\$198; food-\$710; clothing-\$25; car payments-\$250; car insurance-\$80; gas-\$80. Appellant also paid the Internal Revenue Service \$110 a month and \$210 a month for old credit card debt. In addition, the appellant had to spend \$2,000 during 2019 to replace personal property that was damaged by mold in his apartment. See the testimony of the appellant which I find to be credible and Exhibits 4, 6, and 7.

Taking into account all of the expenses listed above, Appellant's monthly expenses amounted to about \$2,700. Appellant's income, if we assume consistent earnings, came to about \$3,800 a month before taxes. However, Appellant's income was not consistent from month to month. The earnings from both part-time jobs varied from week to week and month to month. While the appellant might have been able to pay for health insurance without experiencing a serious deprivation of basic necessities at least during some months, it is not clear, Appellant could afford the expense every month. In addition, Appellant received two shut-off notices for his electricity during 2019.

I determine that Appellant had a financial hardship in 2019 such that health insurance was unaffordable for him. See 956 CMR 6.08(1)(b) and (e) which define hardships as the receipt of shut-off notices for basic necessities, and as the serious deprivation of basic necessities because of the cost of health insurance; and 956 CMR 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing.

I also note that Appellant had health insurance as of the date of the hearing.

Appellant's penalty is waived in full because of financial hardship.

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

PENALTY ASSESSED

Number of Months Appealed: ___12___ Number of Months Assessed: ___0___

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19997

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 21, 2020

Decision Date: February 2, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the appellants appeared at the hearing which was held by telephone on December 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellants on August 15, 2020 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2020 for December 21, 2020 hearing
- Exhibit 4: Connector letter dated December 24, 2018 to Appellants regarding eligibility for Health Connector plan with financial assistance
- Exhibit 5: Appellants' 2018 Federal tax return, first page only
- Exhibit 6: Appellants' 2019 Federal tax return, first page only

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, who filed a 2019 Massachusetts tax return jointly with no dependents claimed, were 35 and 29 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellants lived in Hampden County in 2019, except for November and December when they were both out of the country (Exhibit 2, Testimony of Appellant).
3. Appellants' Federal Adjusted Gross Income for 2019 was \$33,076 (Exhibit 2, Testimony of Appellant).
4. One of the appellants was employed in construction in 2019. The appellant was self-employed. Appellant's income varied from month to month. His income dropped in the winter months. In November and December, 2019, Appellant was out of the country and had no income (Testimony of Appellant).

5. The other appellant worked part time for an airline. Her employment ended in June, 2019. This appellant was unemployed the rest of the year. She earned about \$5,000 during the year (Testimony of Appellant)
6. Neither appellant had health insurance all of 2019. The appellant who worked for an airline was offered health insurance but the coverage was not comprehensive. For example, it did not cover hospital stays (Testimony of Appellant, Exhibit 2).
7. Both appellants have been assessed a penalty for all of 2019 (Exhibit 2, Testimony of Appellant).
8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
9. According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$33,076 could afford to pay \$170 per month for health insurance. According to Table 4, Appellants, ages 35 and 29 and living in Hampden County, could have purchased insurance for \$572 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants (Schedule HC for 2019, Tables 3 and 4; Exhibit 2; Testimony of Appellant).
10. According to Table 2 of Schedule HC for 2019, Appellants earning less than \$49,380, the income limit for a family of two, would have been eligible for the ConnectorCare program based upon income (Exhibit 2, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq.).
11. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).
12. Appellants did not fall more than thirty days behind in rent payments in 2019 (Testimony of Appellant).
13. Appellants did not receive any shut-off notices for basic utilities during 2019 (Testimony of Appellant).
14. Appellants had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity and heat-\$60 on average; telephone and internet-\$265; food and household, personal items, and clothing-\$2,000; car insurance-\$110; gas-\$145; car repairs-\$122(Testimony of Appellant).
15. Both appellants obtained coverage through the Connector as of January 1, 2020 (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part. The appellants have each been assessed a tax penalty for all of 2019. Appellants have appealed the penalty. See Exhibits 1 and 2.

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

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

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

According to Table 3 of Schedule HC for 2019, the appellants with no dependent claimed with an adjusted gross income of \$33,076 could afford to pay \$170 per month for health insurance. According to Table 4, Appellants, ages 35 and 29 and living in Hampden County, could have purchased insurance for \$572 per month for a plan for a married couple. Such coverage would have been unaffordable for the appellants. See Schedule HC for 2019, Tables 3 and 4; Exhibit 2; and the testimony of Appellant which I find credible.

Neither appellant had access to health insurance which met the Commonwealth's minimum creditable coverage standards through employment. One was self-employed. The other, when she was employed from January through June, was offered insurance which did not meet the Commonwealth's minimum creditable coverage standards. As an example, the coverage offered did not pay for hospital stays. See the testimony of the appellant which I find to be credible and 956 CMR 5.00 et. seq. See 956 CMR 5.03 (1)(a)(4) regarding hospitalizations.

Appellants could have obtained coverage through the Connector's ConnectorCare program. The couple earned less than the income cap for a household of two (\$49,380) and had no affordable coverage available through employment or other government program which met the Commonwealth's standards. See Exhibit 1, Table 2 of Schedule HC-2019, 956 CMR 12.00 et. seq., and the testimony of the appellant which I find credible.

Since affordable coverage was available to the appellants through the individual market, we need to consider whether the appellants had a financial hardship such that the cost of purchasing health insurance would have caused them 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).

Appellants had the following monthly expenses for basic necessities in 2019: rent-\$800; electricity and heat-\$60 on average; telephone and internet-\$265; food and household, personal items, and clothing-\$2,000; car insurance-\$110; gas-\$145; car repairs-\$122. These expenses came to about \$3,500 a month. Appellants' income varied from month to month. On average, however, the couple earned about \$3,180 a month during the first six months of the year. One of the appellants then stopped working in June, and the couple's income dropped by about \$800 a month. See the testimony of the appellant which I find to be credible. Appellants' expenses were greater than their income before taxes all year.

Based upon these facts summarized above, I determine that the appellants had a financial hardship such that the cost of purchasing health insurance would have been unaffordable for them. Appellants' income was inconsistent from month to month. The appellants ran a deficit every month. The expense of purchasing insurance would have caused the appellants to experience a serious deprivation of basic necessities. See 956 CMR 6.08 (1)(e).

I also note that Appellant's obtained coverage through the Connector as of January 1, 2019. See the testimony of the appellant which I find to be credible.

Appellants' penalty is waived because of financial hardship.

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

PENALTY ASSESSED

Number of Months Appealed: 24 Number of Months Assessed: 0

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Cc: Connector Appeals Unit

Hearing Officer

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19996

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: December 21, 2020

Decision Date: February 9, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on December 21, 2020. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on August 14, 2020 with letter attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated November 16, 2020 for December 21, 2020 hearing
- Exhibit 4: Letter dated August 13, 2020 from Appellant's mother's doctor
- Exhibit 5: Medical note dated December, 2019 regarding Appellant's father's medical conditions

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 30 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Suffolk County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$42,915 in 2019 (Testimony of Appellant, Exhibit 2).
4. At the end of 2018, Appellant moved to Massachusetts in order to live with and care for his aging parents. Both parents had serious medical conditions which caused them to be unable to care for themselves any longer. Appellant's mother had a debilitating, progressive illness which left her unable to walk. By the end of 2018, Appellant's mother was wheelchair bound. Appellant's father was being followed by his doctor for cancer and other ailments which made it no longer possible for him to care for his wife. For example, Appellant's father could no longer lift his spouse into bed or into her wheelchair (Exhibits 1 attachment, 4 and 5; Testimony of Appellant).
5. At the beginning of 2019, Appellant became the full-time caretaker for his parents. Appellant lived with them and provided daily care for them. Appellant also took them to all of their doctors' appointments. Because of these

responsibilities, Appellant who had worked full-time before moving back to Massachusetts, had to look for part-time work. Appellant was able to find work teaching on the college level. He taught three courses during 2019. One was held in January and February; one started at the end of February and ran through the spring, and the last one started in the fall. Appellant did not have a permanent position. He had no work in the summer months and did not find out until August that he would be teaching a course in the fall. Appellant was paid \$14,000 per course (Testimony of Appellant).

6. Appellant was not offered health insurance by the school he taught at. Appellant was uninsured the entire year. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment. As of January 1, 2020 Appellant had health insurance coverage through the Connector (Testimony of Appellant, Exhibits 1 and 2).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

8. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$42,915 could afford to pay \$271 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Suffolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2, Testimony of Appellant).

9. According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

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; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

11. Appellant did not receive any shut-off notices for basic utilities during 2019 (Testimony of Appellant).

12. Appellant did not fall more than 30 days behind in rent payments during 2019 (Testimony of Appellant).

13. Appellant incurred a significant increase in basic necessities in 2019 because of the sudden need to provide full care to his aging and ill parents (Testimony of Appellant; Exhibits 4 and 5).

13. Appellant had the following monthly expenses for basic necessities in 2019: rent, including heat and electricity-\$120; telephone/internet-\$90; food-\$1,605; clothing-\$70; gas-\$215; transportation to work-\$345; car repairs-\$25. Appellant paid over \$500 during the year for medical supplies for his parents and hundreds of dollars for care of his parents' house. These expenses were not only for the appellant's needs, but for the needs of his parents. Appellant paid all of their living expenses after he moved in with them (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

a tax penalty for “each of the months” that the individual did not have health insurance as required by the individual mandate. There is a three-month grace period to allow the taxpayer to obtain health insurance coverage or to make the transition between health insurance policies. See G. L. c. 111M, sec. 2(b) and for Tax Year 2010, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, which interprets the 63-day gap in coverage to be three months. The Connector’s regulations provide for a waiver of the tax penalty in the case of a financial hardship. See 956 CMR 6.08. Pursuant to 45 CFR 155.305(f), an individual is not eligible for an advance premium tax credit if the individual has access to affordable health insurance which meets minimum essential coverage as defined in the Patient Protection and Affordable Care Act.

Appellant was uninsured all of 2019. He has been assessed a penalty for twelve months. Appellant has appealed the assessment. See Exhibits 1 and 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the appellant through employment, through the individual market, or through a government-sponsored program during the months Appellant was uninsured. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the appellant because Appellant experienced a financial hardship as defined in 956 CMR 6.08.

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$42,915 could afford to pay \$271 per month for health insurance. According to Table 4, Appellant, 30 years old and living in Suffolk County, could have purchased insurance for \$257 per month for a plan for an individual. Insurance on the individual market was affordable for the appellant. See Schedule HC for 2019 Tables 3 and 4, Exhibit 2, and the testimony of Appellant which I find to be credible.

According to Table 2 of Schedule HC for 2019, Appellant earning more than \$36,420 per year, would have been ineligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

Appellant had no access to health insurance through employment. Appellant had part-time teaching jobs during the year on the college level. Appellant taught one course in January and February, another in the spring, and a final one during the fall semester. As a part-time employee, he was not offered health insurance benefits. See the testimony of the appellant which I find to be credible.

Since there was affordable health insurance available to the appellant through the individual market, we need to determine if Appellant’s penalty can be waived because Appellant experienced a financial hardship as defined in 956 CMR 6.08 (1) through (3).

In this matter, at the end of 2018, Appellant who lived and worked outside of Massachusetts, moved back to the Commonwealth to take care of his ill and aging parents. His parents had been ill with chronic, debilitating illnesses, but they had reached the point where Appellant’s father could no longer provide basic care for Appellant’s mother. When Appellant moved back, his mother was wheelchair bound and his father could no longer move her in and out of the chair or in and out of bed. Appellant realized that he would no longer be able to work full-time because he was going to have to be the primary caretaker for both of his parents. Appellant could only have part-time work because of his responsibilities for his parents’ care. See the testimony of the appellant which I find to be credible and Exhibits 4 and 5 which describe the medical conditions both parents were suffering from.

In addition to being his parents’ caretaker, Appellant also took on the responsibility for paying his parents’ living expenses such as food, utilities, transportation to doctors’ appointments. He also paid for maintenance of his parents’ home and paid for some of their medical supplies. See the testimony of the appellant which I find to be credible.

Based upon the facts summarized above, I determine that the appellant had a financial hardship in 2019 such that health insurance was unaffordable for him. See 956 CMR 6.08(1)(d)(3) which defines financial hardship as the incurring of a significant, unexpected increase in essential expenses because of the sudden responsibility for providing full care for an aging parent or other family member; and 956 CMR 6.08(3) which allows the consideration of other financial issues raised by the appellant during the hearing. As noted, Appellant, upon moving back to Massachusetts, found that he would no longer be able to work full-time because he had to take on full responsibility for caring for his parents. Appellant also took on the responsibility for paying many of his parents' expenses for basic necessities such as food.

I also note that Appellant had health insurance as of January 1, 2020 through the Connector.

Appellant's penalty is waived in full because of financial hardship.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA18-1148

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2018 Tax Year Penalty

Hearing Date: February 9, 2021

Decision Date: February 20, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 9, 2021 and testified under oath. The hearing record consists of his testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2018

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 53–years-old, is married and has one adult child. In 2018, he had health insurance from February through April. (Testimony, Ex. 2)
2. Prior to 2018, the appellant did not have health insurance for several years. He was assessed a penalty for each year he was uninsured and was on a payment plan in the amount of approximately \$8000.00 with the Department of Revenue which he recently completed. (Testimony, Ex. 2)
3. The appellant was self-employed in 2018, and obtained health insurance through the Health Connector for the months of February through April. He was unable to afford it thereafter due to very high living expenses. (Testimony, Ex. 2)
4. The appellant lived in Worcester County in 2018 and incurred electricity bills that were so high that he had to sell his property and move to Middlesex County in 2019. (Testimony)

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 2018 Massachusetts income tax return. It also contains information about prior appeals, if any.

5. The appellant received at least four termination notices from National Grid for his electric service in 2018. First, he was advised by notice dated March 20, 2018, that his account would be 48 days past due on April 5, 2018, that he had an outstanding balance of \$409.51, and that his service would be terminated if he did not pay \$195.27 by that date. He paid the minimum due on April 2, 2018 to avoid a shut off of his electricity. On April 2, 2018, he was advised that his account would be 48 days past due on May 5, 2018, that he had an outstanding balance of \$425.39, and that his service would be terminated if he did not pay \$214.24 by that date. He paid the minimum due on May 4, 2018 to avoid a shut off of his service. Third, he was advised by notice dated June 11, 2018, that his account would be 48 days past due on July 4, 2018, that he had an outstanding balance of \$290.95, and that his service would be terminated if he did not pay that amount by that date. Fourth, he received a second notice of termination dated July 2, 2018, in which he was advised that he had an outstanding balance of \$327.81, and that his service would be terminated on July 9, 2018, if he did not pay a minimum of \$290.95. In some or all of the aforesaid instances, the appellant was able to avoid termination of his service by paying the minimum due or entering into a payment plan. He often fell behind on his obligations under the plan, and he continued to make payments after he sold the property well into 2019. (Testimony, Ex. 1)
6. At one point during the winter of 2018, the appellant owed National Grid approximately \$1300.00 and his service was shut off for approximately three-four days. (Testimony)
7. The appellant has had health insurance through his wife's employer since 2019. (Testimony)
8. The appellant reported an adjusted gross income of \$38,372.00 on his 2018 federal tax return, and reported that he was married filing separately with no dependents. (Ex. 2)

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2018 because he received a shut-off notice, was shut off, or was refused delivery of essential utilities.

The appellant did not have health insurance in January and from May through December, 2018. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2018, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for eight months, he was assessed and is appealing a penalty of five months (i.e., the months of uninsurance less the gap period of three months).

The appellant testified credibly that he was self-employed in 2018, and had health insurance for three months through the Health Connector. He testified that he was unable to afford insurance thereafter due to very high living costs. He testified that he received at least four termination notices from National Grid for his electric service during the year, and that his service was shut off for approximately three-four days during the winter. In the other instances, he testified that he was able to avoid a shut off of his service by paying the minimum due or by entering into a payment plan. He testified that his electric costs were so high that he had to sell his property

and move elsewhere. He testified that prior to 2018, he did not have health insurance for several years and was assessed a penalty for each year which required him to enter into a payment plan with the Department of Revenue for approximately \$8000.00. Finally, he testified that he has had health insurance since 2019 through his wife's employer.

The appellant may not be subject to a penalty for failing to get health insurance for the months in question if he can show that he experienced a hardship during 2018. 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 2018 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 the shutoff of his electric service was corroborated by several notices indicating that his service was threatened with termination on multiple occasions in 2018. Moreover, he offered compelling testimony that his service was shut off for several days and that he was forced to sell the property due to exceedingly high electricity costs. 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)(b) as a result of which he should not be subject to a penalty.²

Based on the foregoing, 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 2018, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 5

Number of Months Assessed: 0

The Connector has notified the Department of Revenue that, pursuant to its decision, you should be assessed a penalty for Tax Year 2018 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 2018.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

² It is noted that the appellant has had health insurance since 2019 thereby demonstrating that the mandate to obtain insurance has not been lost on him.

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1000

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: December 22, 2020
Decision Date: February 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 22, 2020. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated November 16, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated August 13, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 47 years old in 2019. Appellants file a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$116,146 in 2019 (Exhibit 2).
4. Appellant was covered by employer sponsored health insurance from January through July 2019 (Testimony of Appellant and Exhibit 2).
5. Appellant was laid off from Appellant's job in July and lost employer sponsored health insurance beginning in August, 2019 (Testimony of Appellant).
6. Appellant's only income from August through December 2019 was unemployment compensation (Testimony of Appellant).
7. Appellant received \$3,445 per month for unemployment compensation between August and December 2019 (Testimony of Appellant).
8. Appellant struggled to pay bills for basic expenses during August through December 2019, when Appellant was unemployed (Testimony of Appellant).

9. During 2019, Appellant had the following expenses for basic necessities: mortgage \$2,295; utilities \$250; telephone \$250; food \$300; supplies \$200; car payment \$430; car and homeowners insurance \$501; gasoline \$130; car maintenance \$33, eyeglasses \$25. Appellants' expenses for necessities were \$4,414
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
11. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents claimed with an adjusted gross income of \$116,146 could afford to pay \$774 per month for private insurance. According to Table 4, Appellant, aged 47 and living in Worcester County could have purchased private insurance for \$350 per month.
12. Private insurance was considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
13. According to Table 2 of Schedule HC for 2019, earning more than \$36,420 was not income eligible for government subsidized health insurance.
14. Appellant did not have health insurance for five months in 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for two months for 2019 (Exhibit 2).
16. Appellant filed a hardship appeal on August 13, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for 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 such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a financial hardship See 956 CMR 6.

Appellant was considered able to afford private insurance in 2019. Since Appellant potentially had access to affordable insurance for 2019, we need to consider whether Appellant experienced a financial hardship as defined by 956 CMR 6.08.

During August through December, Appellant struggled to pay for basic expenses. Appellant's monthly expenses were \$4,414 and during this time period, Appellant's monthly income was \$3,445. Purchasing health insurance would have caused a serious deprivation of food, shelter clothing or other necessities. See Testimony of Appellant, which I find to be credible and 956 CMR 6.08 (1) (e).

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

PENALTY ASSESSED

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

If Appellant still does not have health insurance, Appellant should contact the Health Connector at 1 877 623 6765 to explore options for affordable health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1001

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: December 22, 2020
Decision Date: February 8, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on December 22, 2020. Appellant also appeared for Appellant spouse. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated November 16, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated August 12, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants were 49 and 51 years old in 2019. Appellants file a Massachusetts 2019 tax return as married filing jointly with two dependents claimed (Exhibit 2).
2. Appellants resided in Suffolk County, MA in 2019 (Exhibit 2).
3. Appellants had an Adjusted Gross Income of \$395,511 in 2019 (Exhibit 2).
4. Appellants' income was from an inheritance (Testimony of Appellant).
5. Appellants moved to Massachusetts in 2018 after political turmoil in their home country (Testimony of Appellant).
6. Appellants were permitted to stay in the United States on a temporary basis (Testimony of Appellant).
7. In 2019, Appellants were unsure whether their status would continue to permit them to stay in the United States (Testimony of Appellant).
8. During 2019, Appellants were covered by health insurance through their home country and the insurance had international coverage (Testimony of Appellant).

9. Appellants' coverage from their home country required continuing payment or they would be denied coverage for pre-existing conditions when they returned to their home country (Testimony of Appellant).
10. Appellants paid for their health insurance issued by their home country and the insurance was very expensive (Testimony of Appellant).
11. Appellants tried to apply for health insurance through the Health Connector in 2019, but had difficulty with the process and were told they did not qualify (Testimony of Appellant).
12. Appellants applied again and began health insurance through the Health Connector beginning in January 2020 (Testimony of Appellant).
13. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
14. According to Table 3 of Schedule HC for 2019 a couple filing as married filing jointly with two dependents claimed with an adjusted gross income of \$395,511 could afford to pay \$2,637 per month for private insurance. According to Table 4, Appellants, aged 49 and 51 and living in Suffolk County could have purchased private insurance for \$968 per month.
15. Private insurance was considered to be affordable for Appellants in 2019 (Schedule HC for 2019).
16. Appellants did not have health insurance that met Massachusetts creditable coverage standards for twelve months in 2019 (Testimony of Appellant and Exhibit 2).
17. Appellants have each been assessed a penalty for twelve months for 2019 (Exhibit 2).
18. Appellant filed a hardship appeal on August 12, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellants have each 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 Appellants, before we consider whether Appellants suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellants to experience a financial hardship. See 956 CMR 6.

Appellants were considered able to afford private insurance in 2019. However Appellants were newly arrived in the United States and were not sure of whether they could continue to live in the U.S. They were covered by health insurance from their home country. They also tried to obtain health insurance from the Health Connector, but were unable to do so. Appellants did begin coverage through the Health Connector in 2020. See Exhibit 4 and Testimony of Appellant, which I find to be credible. Due to Appellants' circumstances, I will waive the penalty for 2019.

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

PENALTY ASSESSED

Number of Months Appealed: 12/12

Number of Months Assessed: 0/0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellants are advised that this decision is based upon the facts as I have found them in 2019 and Appellants should not assume that a similar decision will be reached if Appellants fail to have health insurance that meets Massachusetts standards in the future.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1031

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 6, 2021

Decision Date: February 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 6, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-10-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (with letter) (8-2-20) (4 pages); and
- Exhibit 4: Final Appeal Decision (TY2018) (1-21-20) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 34 during 2019, from Barnstable County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance during 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$87,787.00 (Exhibit 2).
4. Appellant had completed the paperwork to enroll in the employer's health insurance during 2019, but the employer failed to properly process the paperwork and enroll the Appellant. (Appellant's testimony, Exhibit 3).

5. Appellant did not attempt to use the health insurance during 2019 and, therefore, was not aware that the health insurance was not in place. (Appellant Testimony).
6. Appellant now has health insurance through the employer. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$279.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$585.00.
9. Private insurance was affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that Appellant had made attempts to have health insurance through the employer and through no fault of Appellant, the employer did not enroll Appellant in the health insurance. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should

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

Private insurance was affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$87,787.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$585.00 per month; according to Table 4, Appellant, who was 34 years old in 2019, from Barnstable County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$279.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that through no fault of Appellant, the employer did not enroll Appellant in health insurance although Appellant filled out the paperwork. Appellant now has health insurance through the employer. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1032

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 6, 2021

Decision Date: February 22, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 6, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (12-10-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page);
- Exhibit 3: Statement of Grounds for Appeal (8-6-20) (4 pages); and
- Exhibit 4: Final Appeal Decision TY2018 (11-25-19) (3 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 58 during 2019, from Middlesex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$50,860.00 (Exhibit 2).
4. Appellant was injured on the job in the fall of 2018, and missed open enrollment for health insurance. (Appellant's testimony).
5. Appellant now has health insurance through the employer. (Appellant's Testimony).

6. Appellant's expenses for food, shelter, clothing, legal and medical bills, and other necessities, used most of the available income (Appellant's Testimony). The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, child support and other necessities, totaled approximately \$3,000.00 per month averaged out, or \$36,000.00 for the year. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$418.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$339.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019, and that Appellant missed the open enrollment due to a job-related injury. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

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

Private insurance was not affordable for the Appellant during 2019. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$50,860.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$339.00 per month; according to Table 4, Appellant, who was 58 years old in 2019, from Middlesex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$418.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1033

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 6, 2021

Decision Date: February 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 6, 2021. The hearing record was left open until January 20, 2021, to allow Appellant to submit additional information or documents regarding expenses. Appellant did not submit any additional documents or information. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Notices of Hearing (12-10-20) (2 pages);

Exhibit 2: Information from Schedule HC TY 2019 (1 page); and

Exhibit 3: Statement of Grounds for Appeal (8-19-20) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 29 during 2019, from Norfolk County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did have health insurance from January through July 2019, but did not have health insurance for the remaining months of 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$69,508.00 (Exhibit 2).
4. Appellant was laid off in August of 2019, and received \$650.00 per week for the remaining months of 2019. (Appellant's testimony, Exhibit 3).

5. Appellant is still unemployed and has depleted resources and is in financial difficulty. (Appellant's Testimony, Exhibit 3).
6. Appellant's expenses for food, shelter, clothing, student loans, medical bills, and other necessities, used most of the available income during the months Appellant was without insurance. (Appellant's Testimony). Appellant did not have the amount of student loans or medical expenses during the hearing. The monthly expenses for food, shelter, clothing, home repairs, vehicle expenses, and other necessities, totaled approximately \$2,711.00 per month averaged out, or \$32,532.00 for the year. The monthly amount of unemployment was approximately \$2,816.00 or annualized amount of \$33,800.00. (Appellant's Testimony, Exhibit 3).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$465.00. However, if the income during the months that Appellant did not have insurance is used, Appellant was deemed to afford \$141.00 and it would not be considered affordable.
9. Private insurance was affordable for the Appellant in 2019 overall, but it was not affordable if only the income for the months Appellant was uninsured is used. (Schedule HC for 2019).
10. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019, and that Appellant continues to be unemployed and in financial difficulty as a result. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

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

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

Private insurance was affordable for the Appellant during 2019 overall. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$69,508.00 was deemed to have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$465.00 per month; according to Table 4, Appellant, who was 29 years old in 2019, from Norfolk County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. However, if the income during the months Appellant was uninsured is used, Appellant could afford only \$141.00 per month and the insurance would not be deemed affordable. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1034

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 6, 2021

Decision Date: February 23, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 6, 2021. The hearing record was left open until January 20, 2021, to allow Appellant to submit additional information or documents regarding expenses. Appellant did not submit any additional documents or information. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (12-10-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (8-17-20) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 28 during 2019, from Essex County, filed single on the tax return with a family size of 1. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$31,200.00 (Exhibit 2).
4. Appellant's employer did not offer health insurance. There was a house fire in Appellant's house that caused additional expenses for 2019. In addition, Appellant helps pay expenses for Appellant's girlfriend due to her medical issues. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, transportation, and other necessities, used all of the available income. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$3,265.00 per month averaged out, or \$39,180.00 for the year. (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$257.00 for coverage for an individual. According to Table 3, Appellant was deemed to afford \$130.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was under 300% of the Federal Poverty Level, and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

Appellant did not have health insurance for 2019. They have been assessed a tax penalty for twelve months. Appellant appealed the assessment. See Exhibits 2 and 3. To determine if the penalty should

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

Private insurance was not affordable for the Appellant during 2019 overall. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$31,200.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$130.00 per month; according to Table 4, Appellant, who was 28 years old in 2019, from Essex County, and filed the 2019 Massachusetts taxes as single with a family size of 1, would have had to pay \$257.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1041

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 8, 2021
Decision Date: February 17, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified.

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

- Exhibit 1: Correspondence from the Health Connector, dated December 10, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated August 20, 2020
- Exhibit 4: Statement in Support of Appeal
- Exhibit 5: Final Appeal Decision for 2018

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 43 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant had an Adjusted Gross Income for 2019 of \$21,075 (Exhibit 2).
3. Appellant's income was inconsistent and Appellant was unemployed for parts of 2019 (Testimony of Appellant).
4. Appellant struggled to pay for basic necessities in 2019 (Testimony of Appellant).
5. Appellant had a roommate until April 2019 and Appellant and the roommate shared the costs of the apartment (Testimony of Appellant).
6. Appellant's roommate moved and Appellant's living expenses doubled in April 2019 (Testimony of Appellant).
7. Appellant fell more than thirty days behind in rental payments in 2019 (Exhibit 4 and Testimony of Appellant).
8. Appellant received assistance to help pay for utilities (Testimony of Appellant).
9. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector

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

10. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$21,075 could afford to pay \$51 per month for private insurance. According to Table 4, Appellant, who was 43 and lived in Worcester county could have purchased private insurance for a cost of \$306 per month.

11. Private insurance was not considered affordable for Appellant in 2019 (Schedule HC for 2019).

12. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).

13. Appellant did not have health insurance from January through December of 2019 (Testimony of Appellant and Exhibit 2).

14. Appellant has been assessed a penalty for twelve months for 2019 (Exhibit 2).

15. Appellant filed an Appeal on August 20, 2020 stating that Appellant had experienced a hardship of falling more than thirty days in arrears in rent, and that purchasing health insurance would have caused Appellant to experience a serious deprivation of food, shelter and other necessities in 2019 (Exhibits 3 and 4).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for twelve months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Government subsidized health insurance may have been available to Appellant in 2019. However, due to Appellant experiencing the loss of employment and falling behind on rent, I find that Appellant suffered a hardship and health insurance was not affordable for 2019. See Schedule HC for 2019, 956 CMR 6.08 (1)(a), Exhibits 2, 3, 4 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

ADDENDUM

Appellant is advised that this decision is based upon the facts as I have found them in 2019 and Appellant should not assume that a similar decision will be reached if Appellant fails to have health insurance in future years. Appellant may want to contact the Health Connector at 1 877 623-6765 to explore options for government subsidized health insurance.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1043

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 8, 2021
Decision Date: February 18, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated December 10, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated August 23, 2020
- Exhibit 4: Statement in support of Appeal

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 60 years old in 2019. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
2. Appellant resided in Worcester County, MA in 2019 (Exhibit 2).
3. Appellant had an Adjusted Gross Income of \$52,037 in 2019 (Exhibit 2).
4. Appellant worked a seasonal job and had employer sponsored health insurance only while working (Testimony of Appellant).
5. Appellant was covered by employer sponsored health insurance during September, October and November of 2019 (Exhibit 2 and Testimony of Appellant).
6. Appellant was unemployed for several months in early 2019 and again in December 2019 (Testimony of Appellant).
7. When Appellant was unemployed, Appellant's only income was from unemployment insurance (Testimony of Appellant).
8. When Appellant was unemployed, Appellant struggled to pay basic expenses, which included a mortgage of \$1,039 per month as well as a car payment of \$350 per month (Testimony of Appellant).

9. Appellant fell more than thirty days behind in the mortgage payments in 2019 (Exhibit 4 and Testimony of Appellant).
10. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
11. According to Table 3 of Schedule HC for 2019 a person filing as married filing separately with no dependents with an adjusted gross income of \$52,037 could afford to pay \$347 per month for private insurance. According to Table 4, Appellant, age 60 and living in Worcester County could have purchased private insurance for \$418 per month.
12. Private insurance was not considered to be affordable for Appellant in 2019 (Schedule HC for 2019).
13. According to Table 2 of Schedule HC for 2019, Appellant, earning \$52,037 would not have been income eligible for government subsidized health insurance.
14. Appellant did not have health insurance for nine months in 2019 (Testimony of Appellant and Exhibit 2).
15. Appellant has been assessed a penalty for five months for 2019 (Exhibit 2).
16. Appellant filed a hardship appeal on August 23, 2020 (Exhibit 3)

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for five months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a financial hardship See 956 CMR 6.

According to Tables 2, 3 and 4 of Massachusetts Schedule HC 2019, Appellant would not have been income eligible for subsidized health insurance. Private health insurance was not considered affordable for Appellant.

I find that affordable health insurance was not available to Appellant in 2019 and that the penalty assessed against Appellant for 2019 should be waived in its entirety.

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

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1046

Appeal Decision: Penalty Overturned in Full
Hearing Issue: Appeal of the 2019 Tax Year Penalty
Hearing Date: January 8, 2021
Decision Date: February 19, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 8, 2021. The procedures to be followed during the hearing were reviewed with Appellant. Appellant was sworn in. Exhibits were marked and admitted in evidence with no objection from Appellant. Appellant testified. The hearing record consists of the testimony of Appellant, and the following documents which were admitted in evidence:

- Exhibit 1: Correspondence from the Health Connector, dated December 10, 2020
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Appeal, dated August 27, 2020

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant was 44 years old in 2019 and resided in Worcester County (Exhibit 2).
2. Appellant filed a Massachusetts 2019 tax return as single with no dependents claimed (Exhibit 2).
3. Appellant had an Adjusted Gross Income for 2019 of \$26,913 (Exhibit 2).
4. Appellant struggled to pay for basic necessities in 2019. Appellant's expenses included rent and utilities for \$772 and child support of \$763 (Testimony of Appellant).
5. Appellant fell behind in the electricity bill and the electricity was shut off (Testimony of Appellant).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. According to Table 3 of Schedule HC for 2019 a person filing as single with no dependents with an adjusted gross income of \$26,913 could afford to pay \$94 per month for private insurance. According to Table 4, Appellant, who was 44 and lived in Worcester county could have purchased private insurance for a cost of \$306 per month.
8. Private insurance was not considered affordable for Appellant in 2019 (Schedule HC for 2019).

9. Appellant, earning less than \$36,420 would have been income eligible for government subsidized health insurance (Schedule HC for 2019).
10. Appellant was covered by government subsidized health insurance in November and December of 2019 (Exhibit 2 and Testimony of Appellant).
11. Appellant did not have health insurance from January through October of 2019 (Testimony of Appellant and Exhibit 2).
12. Appellant has been assessed a penalty for seven months for 2019 (Exhibit 2).
13. Appellant filed a hardship Appeal on August 27, 2020 (Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

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

Appellant has been assessed a tax penalty for seven months. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance was available to Appellant, before we consider whether Appellant suffered a financial hardship such that the purchase of insurance which met minimum creditable coverage standards would have caused Appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.

Appellant was income eligible for government subsidized health insurance in 2019, so we must consider whether the purchase of insurance would have caused Appellant to experience deprivation of basic necessities. Appellant struggled to pay for necessities and had electricity shut off. Appellant did begin coverage under government subsidized insurance in November 2019. I find that Appellant suffered a hardship and health insurance was not affordable for the months assessed in 2019. See Schedule HC for 2019, 956 CMR 6.08 (1)(b), Exhibits 2, 3 and Testimony of Appellant, which I find to be credible.

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

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

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

OR

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA191050

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 11, 2021

Decision Date: February 25, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 11, 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Statement of Grounds for Appeal 2019 signed and dated by Appellant on August 23, 2020 with July 15, 2020 notice from MassHealth attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated December 14, 2020 for January 11, 2021 hearing

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 61 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Essex County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$28,109 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed all of 2019 as a driver for a small company. Appellant was paid for each trip he made. His income varied from week to week (Testimony of Appellant).
5. Appellant had no health insurance in 2018 or in 2019. The appellant obtained MassHealth in July, 2020 (Testimony of Appellant, Exhibit 2).
6. Appellant was offered health insurance through his job, but the coverage would have cost about \$200 a month, so the appellant did not opt for coverage (Testimony of Appellant).

7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment, claiming that the cost of purchasing health insurance would have caused him a serious deprivation of basic necessities (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$28,109 could afford to pay \$98 per month for health insurance. According to Table 4, Appellant, 61 years old and living in Essex County, could have purchased insurance for \$418 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent in 2019 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices in 2019 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2019: rent-\$700; heat and electricity-was included in rent; telephone-\$15; food-\$375; clothing-\$50;. car insurance-\$42; gas-\$25; payment to Internal Revenue Service for back taxes-\$100; old credit card debt-\$50. Appellant also paid \$1,800 for car repairs during the year. Appellant owed the IRS \$6,000 in back taxes (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment, claiming that the expense of purchasing health insurance would have caused him a serious deprivation of basic necessities. Exhibits 1, 2.

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$28,109 could afford to pay \$98 per month for health insurance. According to Table 4, Appellant, 61 years old and living in Essex County, could have purchased insurance for \$418 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant was offered health insurance through his job, but the cost to appellant would have been \$200 a month. The cost was unaffordable to the appellant according to Commonwealth standards. See Table 3 of Schedule HC, 2019. According to Table 3, Appellant could afford to pay \$98 a month. See also the testimony of the appellant which I find to be credible.

Appellant was income-eligible for ConnectorCare coverage. The appellant earned under the income limit for a single person (\$36,420) for 2019. See the testimony of the appellant which I find to be credible, Exhibit 1, Table 2 of Schedule HC for 2019 and 956 CMR 12.00 et.seq. However, the coverage, which is subsidized in part by an advance premium tax credit, is available to an individual who has access to insurance through employment only if the offered insurance is unaffordable under standards set by the Patient Protection and Affordable Act. Pursuant to the Affordable Care Act, if employer-sponsored health insurance is offered and if the cost to the employee in 2019 is less than 9.86% of the employee's modified adjusted gross income, then the coverage is deemed affordable and the employee is not eligible for an advance premium tax credit. See 45 CFR Section 155.305(f). 9.86% of the appellant's modified adjusted gross income of \$28,109 equals \$230 per month ($\$28,109 \times 9.86\% = \$2,277.1$. That amount divided by 12 = \$230). Coverage through Appellant's job cost \$200. The coverage was deemed affordable pursuant to the Affordable Care Act. The appellant was, therefore, ineligible for ConnectorCare coverage based upon access to affordable coverage through employment.

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

No affordable health insurance was available to the appellant in 2019. Insurance through the individual market and through employment was unaffordable to the appellant under Commonwealth standards as set out in Schedule HC of 2019. Insurance through the ConnectorCare program was also unaffordable because under Federal standards, the coverage offered through employment was affordable. The appellant was not eligible for an advance premium tax credit, and, therefore, not eligible for ConnectorCare coverage.

Appellant's penalty is waived in full. See Massachusetts General Laws, Chapter 111M, Section 2.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA191052

Appeal Decision: The penalty is overturned in full.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 11, 2021

Decision Date: February 20, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on January 11 2021. The procedures to be followed during the hearing were reviewed with Appellant who was then sworn in. Exhibits were marked and admitted in evidence with no objection from the appellant. Appellant testified.

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

- Exhibit 1: Letter from Appellant dated August 24, 2020 requesting vacating of dismissal of appeal with list of expenses attached
- Exhibit 2: Appeal Case Information from Schedule HC 2019
- Exhibit 3: Notice of Hearing sent to Appellant dated December 14, 2020 for January 11, 2021 hearing
- Exhibit 4: Final Appeal Decision Tax Year 2018 issued November 8, 2019

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, who filed a 2019 Massachusetts tax return as a single person with no dependents claimed, was 46 years old in 2019 (Exhibit 2, Testimony of Appellant).
2. Appellant resided in Franklin County in 2019 (Testimony of Appellant, Exhibit 2).
3. Appellant had a Federal Adjusted Income of \$24,170 in 2019 (Testimony of Appellant, Exhibit 2).
4. Appellant was employed at the same job all year. Appellant has had the same job for at least five years. The appellant usually worked 35 hours a week, though sometimes, as much as 40 hours (Testimony of Appellant).
5. Appellant was not offered health insurance through employment. Appellant worked at a small company with about five employees (Testimony of Appellant, Exhibit 4).
6. Appellant was uninsured all of 2019. Appellant tried to get insurance through the Connector during 2019. She thought the cheapest coverage she could get would cost about \$200 a month. Appellant felt she could not afford that amount (Testimony of Appellant, Exhibit 2).

7. Appellant has been assessed a penalty for all of 2019. Appellant has appealed this assessment (Testimony of Appellant, Exhibits 1 and 2).

8. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.

9. According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$24,170 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 46 years old and living in Franklin County, could have purchased insurance for \$314 per month for a plan for an individual. Insurance on the individual market was unaffordable for the appellant (Schedule HC for 2019 Tables 3 and 4, Exhibit 2).

10. According to Table 2 of Schedule HC for 2019, Appellant earning less than \$36,420 per year, would have been eligible for the ConnectorCare program based upon income (Table 2 of Schedule HC-2019, and Exhibit 2).

11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member; or fire, flood, or other natural or man-made disaster in 2019 (Testimony of Appellant).

12. Appellant did not fall more than thirty days behind in rent in 2019 (Testimony of Appellant).

13. Appellant did not receive any shut-off notices in 2019 (Testimony of Appellant).

14. Appellant had the following monthly expenses for basic necessities in 2019: rent, including electricity-\$550; heat-\$25; telephone and internet-\$100; food, household and personal care items-\$600; clothing-\$35; car insurance-\$98; gas-\$200. In addition, the appellant paid \$150 a month for a personal loan and \$81 a month for student loans. During the year, Appellant also spent \$230 on car repairs, \$115 on excise tax and registration for her car, and \$300 on glasses or contact lenses (Testimony of Appellant).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived, either in whole or in part.

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

The appellant has been assessed a penalty for all of 2019. The appellant has appealed the assessment. See Exhibits 1, 2. To determine if the penalty should be waived in whole or in part, we must consider whether affordable

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

According to Table 3 of Schedule HC for 2019, the appellant with no dependents claimed with an adjusted gross income of \$24,170 could afford to pay \$58 per month for health insurance. According to Table 4, Appellant, 46 years old and living in Franklin County, could have purchased insurance for \$314 per month for a plan for an individual. Insurance on the individual market was unaffordable for Appellant. See Schedule HC for 2019, Tables 3 and 4, Exhibit 2.

Appellant had no access to health insurance through employment during 2019. Appellant worked at a small company with few employees. Health insurance benefits were not offered. See the testimony of the appellant which I find credible.

Appellant could have had affordable coverage through the ConnectorCare program. Appellant's Federal Adjusted Income was \$24,170, less than the income limit for one person (\$36,420). The appellant also had no access to employer-sponsored insurance during the months in question. See 956 CMR 12.00.

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

Appellant had the following expenses for basic necessities in 2019: rent, including electricity-\$550; heat-\$25; telephone and internet-\$100; food, household and personal care items-\$600; clothing-\$35; car insurance-\$98; gas-\$200. In addition, the appellant paid \$150 a month for a personal loan and \$81 a month for student loans. During the year, Appellant also spent \$230 on car repairs, \$300 on glasses or contact lenses, and \$115 for excise tax and registration for her car. See the testimony of the appellant which I find to be credible.

Appellant's monthly gross income came to about \$2,000 before taxes. The appellant's monthly expenses for basic necessities were approximately the same amount, about \$1,940, not counting car repairs, excise tax, registration, and eye care. Appellant ran a deficit each month. Even low-cost coverage such as ConnectorCare insurance would have caused the appellant to go into debt each month.

Based upon these facts, I determine that the appellant had a financial hardship such that health insurance was unaffordable for her during 2019. The cost of purchasing health insurance would have caused the appellant to experience a serious deprivation of basic necessities. See 956 CMR 6.08(1)(e). Appellant's penalty is waived in full.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

If the appellant still does not have health insurance coverage, Appellant may wish to contact the Connector at 1-877-623-6765 to find out if there are affordable options for her at this time.

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1060

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 13, 2021

Decision Date: February 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

One of the Appellants appeared at the hearing, which was held by telephone, on January 13, 2021. The hearing record was left open until January 31, 2021, to allow Appellants to submit additional information or documents regarding expenses. Appellant did submit additional documents and information. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notices of Hearing (12-15-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (8-25-20) (5 pages); and
- Exhibit 4: Additional documents submitted pursuant to open record (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellants, ages 40 and 38 during 2019, from Berkshire County, filed married filing jointly on the tax return with a family size of 2. (Exhibit 2).
2. Appellants did have health insurance for January through May of 2019, but did not have health insurance through the rest of 2019. (Appellant's testimony, Exhibits 2, 4).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$82,828.00 (Exhibit 2).

4. One of Appellants lost their job in June 2019, and therefore lost the employer sponsored health insurance. The other Appellant did not have health insurance available through the employer. (Appellant's testimony, Exhibit 3).
5. Appellant's expenses for food, shelter, clothing, transportation, and other necessities, used most of the available income during the time the Appellants had no insurance. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$3,000.00 per month averaged out, or \$36,000.00 for the year. (Appellant's Testimony, Exhibit 4).
6. Appellants now have health insurance through one of the Appellant's employer. (Appellant Testimony).
7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellants could afford health insurance based on the tables in Schedule HC. According to Table 4, the health insurance would cost \$549.00 for coverage for an individual. According to Table 3, Appellants were deemed to afford \$552.00.
9. Private insurance was affordable for the Appellants in 2019. (Schedule HC for 2019).
10. Appellants' AGI was over 300% of the Federal Poverty Level, and Appellants therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellants claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellants did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellants did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellants were not homeless, were not thirty days or more behind in rent in 2019, and Appellants did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

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

Appellants did have health insurance for January through May of 2019, but did not have health insurance for the remaining months of 2019. However, Appellants' Schedule HC indicated that they did not have health insurance for the entire year. They have been assessed a tax penalty for twelve months, although it should have been four months. Appellants appealed the assessment. See Exhibits 2, 3 and 4. To determine if the penalty should be waived in whole or in part, we must consider whether affordable insurance which met minimum creditable coverage standards was available to the Appellant through employment, through the private market, or through a government-sponsored program. If affordable insurance was available, we must determine if such insurance was, in fact, not affordable to the Appellant because they experienced a financial hardship as defined in 956 CMR 6.08. Private insurance was affordable for the Appellants during 2019 overall. According to Tables 3 and 4 of the HC Schedule for 2019, Appellants, with an adjusted gross income of 82,828.00 were deemed to have been able to afford health insurance on the private market. According to Table 3, Appellants could have afforded to pay \$552.00 per month; according to Table 4, Appellants, who were 40 and 38 years old in 2019, from Berkshire County, and filed the 2019 Massachusetts taxes as married filing jointly with a family size of 2, would have had to pay \$549.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellants claimed that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellants' expenses for food, shelter, clothing, vehicle expenses, and other necessities used most of the income for the months that the Appellants did not have health insurance. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1062

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 13, 2021

Decision Date: February 24, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 13, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

Exhibit 1: Notices of Hearing (12-15-20) (2 pages);

Exhibit 2: Information from Schedule HC TY 2019 (1 page); and

Exhibit 3: Statement of Grounds for Appeal (8-25-20) (with letter and documents) (6 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 53 during 2019, from Suffolk County, filed single on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$110,602.00 (Exhibit 2).
4. Appellant's employer did not offer health insurance. Appellant worked on only commissions, and the expenses for the sales equaled the commissions. Appellant withdrew retirement in order to have money to pay expenses, even though there was a penalty to do so. (Appellant's testimony, Exhibit 3).

5. Appellant's expenses for food, shelter, clothing, transportation, college tuition for the child, and other necessities, used most of the available income. (Appellant's Testimony). The monthly expenses for food, shelter, clothing, vehicle expenses, and other necessities, totaled approximately \$3,000.00 per month averaged out, or \$36,000.00 for the year, and the rest of the income was used for college tuition for the Appellant's child. (Appellant's Testimony, Exhibit 3).
6. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
7. Appellant could not afford health insurance based on the tables in Schedule HC, if the cost of insurance for the Appellant's child is also taken into account (using the "family") column of the charts. According to Table 4, the health insurance would cost \$968.00 for coverage for family. According to Table 3, Appellant was deemed to afford \$737.00.
8. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
9. Appellant's AGI was over 300% of the Federal Poverty Level, and Appellant therefore would not have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
10. Appellant claimed that they should be granted a waiver based on the grounds that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
11. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
12. Appellant was not homeless, was not thirty days or more behind in rent in 2019, and Appellant did not receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

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

Private insurance was not affordable for the Appellant during 2019 overall. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$110,602.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$737.00 per month; according to Table 4, Appellant, who was 53 years old in 2019, from Suffolk County, and filed the 2019 Massachusetts taxes as single with a family size of 2, would have had to pay \$968.00 for coverage per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

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

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1132

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 2, 2021

Decision Date: February 6, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 2, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Appellant's request to vacate Health Connector's Dismissal of Appeal dated November 3, 2020

Ex. 2—Health Connector's Notice of Decision to Vacate Dismissal dated November 20, 2020

Ex. 3—Appeal Case Information from Schedule HC ¹

Ex. 4—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 25-years-old, is single, and does not have children. He resided in Plymouth County, MA in 2019. In 2019, he had health insurance for the months of November and December. (Testimony, Ex. 3)
2. The appellant did not have health insurance in 2018 and believes that the last time he had it prior to then was either in 2016 or 2017. He has never paid a penalty for failure to obtain insurance. (Testimony)
3. The appellant was unemployed from January through March of 2019. He then picked up a part-time job for a couple of months and subsequently accepted a full-time job in May. He was eligible for employer health insurance, but was required to wait for the next open enrollment period in November in order to

¹ Ex. 2 is a computer printout that extracts information submitted by the appellant on Schedule HC as part of his 019 Massachusetts income tax return. It also contains information about prior appeals, if any

enroll. He enrolled in a plan for December and remain enrolled throughout 2020. ² At the time of the instant hearing, he was still employed and had enrolled in insurance for 2021. (Testimony, Ex. 3)

4. The appellant reported an adjusted gross income of \$24,787.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 3)
5. The appellant shared an apartment with his mother in 2019 and contributed \$600.00/month towards rent and other household expenses.
6. In 2019, the appellant had regular monthly expenses of approximately \$1353.00 for rent which included heat and utilities (\$600.00); cell phone (\$122.00); public transportation commuter rail pass (\$281.00); and food (\$350.00). (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did not submit a statement of grounds for appeal, but requested that the Health Connector’s dismissal of his appeal of the penalty be vacated. His request was granted and the matter was set down for a hearing.

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

The appellant testified credibly that he was unemployed from January through March, 2019. He testified that he picked up a part-time job for a couple of months and then accepted a full-time job which began in May. He testified that he was eligible for employer health insurance, but was required to wait for the open enrollment period which began either in October or November. He testified that he enrolled in employer health insurance for the month of December and remained enrolled throughout 2020.

² According to the appellant’s Schedule HC, he had health insurance for the months of November and December, and testified that he believed that his insurance was through MassHealth for the month of November. (Ex. 3) It seems unlikely that he would have been eligible for MassHealth several months into full-time employment and with an imminent open enrollment period. It is possible that the open enrollment period occurred earlier than he remembered and he was able to enroll in employer health insurance for November and December. Nonetheless, for purposes of determining whether the appellant is subject to a tax penalty for 2019, the only relevant inquiry is whether he had insurance for the month in question, rather than who provided the insurance.

The evidence provided by the appellant established that his income for 2019, \$24,787.00 was less than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$24,281.00 and \$30,350.00 is deemed to be able to afford a monthly premium of \$86.75 (4.20% of \$24,787.00/12). Table 4 of the Premium Schedule indicates that a 24-year-old individual (the age of the appellant in 2019) in Plymouth County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, more than the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could not have purchased affordable private health insurance in 2019.

Since the appellant's income was within 300% of the FPL, the appellant should have qualified for subsidized health insurance through the Health Connector, assuming he met all other eligibility criteria, and for which he would have been subject to a subsidized premium of approximately \$86.75 per month, pursuant to the aforementioned Affordability Schedule in Table 3.

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

The evidence presented by the appellant in this case is sufficient to establish that he experienced a financial hardship as defined by law so as to waive his penalty for the months in question. The appellant testified that in 2019 he incurred basic monthly expenses of approximately \$1353.00. Although those expenses were less than his regular monthly pre-tax income of approximately \$2066.00, thereby making a subsidized insurance premium of \$86.75/month seemingly manageable, the difference of \$713.00/month between income and expenses was an inadequate cushion to cover unanticipated expenses that typically arise. Hence, it is concluded that the totality of the evidence presented by the appellant established that he experienced financial circumstances such that the expense of purchasing health insurance that met minimum creditable coverage standards would have caused him to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08 (1)(e).³

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which he was assessed. The determination that the appellant is eligible for a hardship waiver is with respect to 2019, only and is based upon the extent of information submitted by him in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 7

Number of Months Assessed: 0

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

³ It is also noted that the appellant was enrolled in employer health insurance in 2020, and remained enrolled at the time of the instant hearing, thereby demonstrating that the mandate to obtain insurance was not lost on him.

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1133

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 2, 2021

Decision Date: February 10, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 2, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without his objection:

Ex. 1—Statement of Grounds for Appeal—2019

Ex. 2—Appeal Case Information from Schedule HC ¹

Ex. 3—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 30-years old, is single, and does not have children. (Testimony, Ex. 2)
2. The appellant began employment with the employer in August, 2018 while he was a student in Arizona. During that time, he had employer provided health insurance. Subsequent to his graduation, he was hired on a full-time basis and had to take a two-week break from work in order for his visa to be updated to reflect a change in his status from student to employee. He returned to work following the break and was still employed at the time of the instant hearing. (Testimony)
3. The appellant filed his 2019 tax returns in or around April, 2020 and did not include a Schedule HC because he was not familiar with Massachusetts filing requirements. He was notified by the Department of Revenue of the requirement, and in the process of preparing the Schedule HC, discovered that his health insurance had been cancelled on September 30, 2018. (Testimony, Ex. 1)

¹

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

4. Following the aforesaid notification, in or around September, 2020, the appellant contacted customer service in the employer's benefits department and was advised that his insurance was terminated on September 30, 2018 due to non-payment of the premium, which coincided with his two-week break. He was further advised that in order to reactivate his coverage, he would have had to enroll during the open enrollment period which occurs generally in November of each year. The appellant was shocked by the news because he had not received notification of termination of his insurance in 2018, and believed that he had been automatically enrolled in coverage for 2019. In addition, the appellant did not have any medical issues in 2019 and did not have occasion to use his insurance. (Testimony, Ex. 1)
5. The appellant also sent an email to his supervisor about the situation, and after some back-and-forth, he was advised on September 28, 2020, that the employer would be able to enroll him in coverage for 2020 retroactive to January 1st, but could not do the same thing for 2019 since the year had passed. (Testimony, Ex. 1)
6. The appellant enrolled in employer provided health insurance for 2021. (Testimony)
7. The appellant reported an adjusted gross income of \$166,469.00 on his 2019 federal tax return, and reported that he was single with no dependents. (Ex. 2)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant submitted a statement of grounds for appeal (Ex. 1), claiming that the individual mandate did not apply to him during 2019 for "other" reasons.

The appellant did not have health insurance in 2019. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, he was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that he began to work for the employer in August, 2018, while he was a student in Arizona, and enrolled in employer health insurance at that time. He testified that after he graduated, he was hired on a full-time basis, but had to take a two-week break in order for his visa to be updated. He testified that he filed his 2019 tax returns in or around April, 2020, and that subsequent to the filing, he was notified by the Department of Revenue that he had not included a Schedule HC with his return. He testified that in the process of completing the form, he discovered that he did not have health insurance in 2019. He testified that he contacted the employer's benefits department and was advised that his insurance had been terminated on September 30, 2018, for non-payment of the premium, which coincided with the two-week break he took. He testified that this was the

first notice he received that his insurance had been cancelled. He further testified that he had no occasion to use insurance in 2019 because he had no medical issues. He testified that the employer ultimately advised him that it was able to enroll him in insurance retroactive to January 1, 2020, but could not do the same for 2019. Finally, he testified that he enrolled in employer health insurance for 2021.

The appellant's testimony was corroborated by documentation which indicated that he was completely unaware that his insurance had been cancelled in 2018 and had not been renewed for 2019, until he filed his 2019 tax returns and was notified by the Department of Revenue about his missing Schedule HC. The record contains numerous exchanges between the appellant and the employer about the lapse in coverage and the steps the employer took to retroactively enroll him in a plan for 2020. In sum, there is insufficient evidence to suggest that the appellant intentionally evaded state health insurance requirements. Moreover, as soon as he was notified of the break in coverage, he took immediate steps to rectify the problem, thereby demonstrating that the mandate to obtain insurance was not lost on him.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty should be **granted** for the months for which he was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 12

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1135

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 2, 2021

Decision Date: February 13, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 2, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

Ex. 1—Appellant's request to vacate Health Connector's Dismissal of Appeal dated November 13, 2020

Ex. 2—Health Connector's Notice of Decision to Vacate Dismissal dated November 23, 2020

Ex. 3—Appeal Case Information from Schedule HC ¹

Ex. 4—Notice of Hearing

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 34-years old, is single, and does not have children. She did not have health insurance in 2019. (Testimony, Ex. 3)
2. The appellant last had health insurance in 2018 while she was a student in Pennsylvania. After her graduation in August, she moved to Massachusetts in November, 2018. She began to work in 2019 for an employer that offered health insurance for a monthly premium of approximately \$500.00. As a new resident of the state, she was not aware that she was required to purchase insurance pursuant to the "individual mandate", and did not enroll in a plan because she determined that the cost was unaffordable. (Testimony)
3. The appellant filed her 2019 tax returns in or around April, 2020 and did not include a Schedule HC because she was not familiar with Massachusetts filing requirements. She was subsequently notified by

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

the Department of Revenue about the missing schedule and became aware for the first time of her insurance obligation under the mandate. Upon learning of the requirement, she enrolled in employer health insurance in May, 2020, and has remained enrolled since that time. (Testimony, Ex. 3)

4. The appellant reported an adjusted gross income of \$21,313.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 3)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

The appellant did not submit a statement of grounds for appeal, but requested that the Health Connector’s dismissal of her appeal of the penalty be vacated. (Ex. 1) Her request was granted and the matter was set down for a hearing. (Ex. 2)

The appellant did not have health insurance in 2019. According to M.G.L. c. 111M, s. 2, residents are permitted a 63-day gap between periods of coverage without facing a tax penalty; for Tax Year 2019, Administrative Bulletin 03-10: Guidance Regarding M.G.L. c. 111M and M.G.L. c. 176Q, as implemented by 956 CMR 6.00, interprets the 63-day gap in coverage to be three months. As a result, gaps of three months are not subject to penalty. Since the appellant was uninsured for the entire year, she was assessed and is appealing a penalty of twelve months.

The appellant testified credibly that she was a student in Pennsylvania in 2018, and subsequent to her graduation, she moved to Massachusetts in November, 2018. She testified that she began to work in 2019 for an employer that offered health insurance for approximately \$500.00/month. She testified that as a new resident to the state, she was not aware of her obligation to obtain insurance, and did not enroll in a plan because she found the cost unaffordable. She testified that she filed her 2019 tax returns in or around April, 2020, and that subsequent to the filing, she was notified by the Department of Revenue that she had not included a Schedule HC with her return. She testified that upon learning about the requirement to include the schedule with her return, she became aware for the first time of her obligation to obtain insurance pursuant to the mandate. Finally, she testified that she enrolled in employer health insurance in May, 2020, and has remained enrolled since that time.

The appellant’s contention that she was a new resident to the state and was unaware of her obligation to obtain health insurance is credible and not unreasonable. The fact that she filed her 2019 state tax return without a Schedule HC is further support of her claim that she lacked familiarity with the requirement. Moreover, as soon as she was apprised of the requirement, she took remedial steps to enroll in employer health insurance, thereby demonstrating that the mandate to obtain insurance was not lost on her. In sum, there is insufficient evidence to suggest that the appellant intentionally evaded state insurance requirements and, as a result, she should not be subject to a penalty.

Based on the totality of the evidence, it is concluded that the appellant's request for a waiver from the penalty should be **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019 only and is based upon the extent of information submitted in this appeal.

PENALTY ASSESSED

Number of Months Appealed: ___12___

Number of Months Assessed: __0__

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1137

Appeal Decision: Penalty Overturned in Full

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: February 2, 2021

Decision Date: February 16, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

The appellant appeared at the hearing which was held by telephone on February 2, 2021, and testified under oath. The hearing record consists of the appellant's testimony and the following documents which were admitted into evidence without her objection:

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

FINDINGS OF FACT

The record shows, and I so find:

1. The appellant is 29-years-old, is single, and does not have children. In 2019, she resided in Suffolk County, MA. She had health insurance from January through June, 2019. (Testimony, Ex. 2)
2. The appellant was employed from January through part of June during which time she had employer health insurance. She left that job and picked up part-time work at the beginning of July. She then found a full-time job in mid-August and remained employed for the rest of the year. The employer did not offer health insurance. (Testimony, Ex. 2)
3. The appellant investigated health insurance options for the rest of 2019 through the Health Connector and determined that a monthly premium would have cost approximately \$300.00 which she could not afford. She was employed in 2020, but did not have health insurance. At the time of the instant hearing, she was employed and enrolled in employer health insurance. (Testimony)

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

4. The appellant lived in two apartments in Suffolk County in 2019—one from January through August and the second from September through December. (Testimony)
5. The appellant reported an adjusted gross income of \$41,326.00 on her 2019 federal tax return, and reported that she was single with no dependents. (Ex. 2)
6. From January through August, 2019, the appellant had regular monthly expenses of approximately \$1288.00 for rent which included heat (\$800.00), electricity (\$90.00), internet service (\$30.00), public transportation pass (\$88.00), and food (\$280.00). In addition, the appellant had two student loans, one of which she paid \$80.00/month from January through August, and \$50.00/month from September through December; and the second for which she paid \$25.00/month from January through August, and \$33.00/month from September through December. In addition, she was repaying a personal loan at a rate of \$170.00/month and paid approximately \$35.00/month in credit card debt. From September through December, the appellant had regular monthly expenses of approximately \$1152.00 for rent (\$665.00), utilities (\$70.00), and internet service (\$49.00) in addition to the other aforementioned recurring costs. (Testimony)

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

ANALYSIS AND CONCLUSIONS OF LAW

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

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

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

The appellant testified credibly that she was employed from January through June during which time she had employer health insurance. She testified that she left that job and picked up part-time work in July, and then got a full-time job in August for the rest of the year. She testified that employer health insurance was not offered and she investigated insurance options through the Health Connector and determined that the cost of a monthly premium was unaffordable. She testified that she was employed and did not have health insurance in 2020. Finally, she testified that at the time of the instant hearing, she was employed and had employer health insurance.

The evidence provided by the appellant established that her income for 2019, \$41,326.00, was greater than 300% of the federal poverty level (FPL), which for 2019 was \$36,420.00 for an individual. Table 3 of the Affordability Schedule indicates that an individual filing separately with no dependents with a federal adjusted gross income between \$36,421.00 and \$42,490.00 is deemed to be able to afford a monthly premium of \$256.56 (7.45% of \$41,326.00/12). Table 4 of the Premium Schedule indicates that a 28-year-old individual (the age of the appellant in 2019) in Suffolk County (where the appellant resided in 2019) could have purchased private health insurance for \$257.00 per month, pretty much the same as the monthly amount deemed affordable from Table 3. Thus, according to the foregoing analysis, the appellant could have purchased affordable private health insurance in 2019.

Even though private health insurance may have been affordable to the appellant under the law, she may nevertheless not be subject to a penalty for failing to get health insurance for the months in question if she can show that she experienced a hardship during 2019. Examples of hardships include being homeless or overdue in rent or mortgage payments, receiving a shut-off notice for utilities, or incurring unexpected increases in basic living expenses due to domestic violence, death of a family member, sudden responsibility for providing care for a family member or fire, flood or natural disaster. In addition, the appellant's tax penalty for 2019 could be waived if she experienced financial circumstances such that the expense of purchasing health insurance would have caused her to experience a serious deprivation of food, shelter, clothing or other necessities. See 956 CMR 6.08.

The evidence presented by the appellant in this case is insufficient to establish that she experienced a financial hardship as defined by law so as to waive her penalty for the months in question. The appellant testified that from January through August, 2019, she incurred basic monthly expenses of approximately \$1598.00 including her loans and credit card debt; and that from September through December, 2019, she had regular monthly expenses of approximately \$1440.00 including her loans and credit card debt. Those expenses were less than her regular monthly pre-tax income of approximately \$3444.00, thereby making a private health insurance premium of \$257.00/month seemingly manageable. While it is recognized that an approximate difference between income and expenses of \$1846.00/month (January through August) and \$2004.00 (September through December) is not a panacea, it does not appear on its face that the payment of \$257.00 for health insurance would have caused an undue hardship.

Based on the foregoing, it is concluded that the appellant could have afforded private health insurance and failed to establish that she experienced a financial hardship that would entitle her to a waiver of the penalty. Notwithstanding this conclusion, the penalty will be waived for the following reason. Since the appellant left her job in June according to her testimony, she would not have been eligible to purchase insurance until the next open enrollment period beginning on November 1, 2019, unless she had a qualifying life event. See 956 CMR 12.10 (5). As such, since the appellant would have been blocked from purchasing insurance, the affordability analysis does not apply to her circumstances. Moreover, although she was uninsured in 2020, she has been enrolled in employer health insurance since the beginning of 2021, thereby demonstrating that the mandate to obtain insurance was not lost on her.

Therefore, based upon the totality of the evidence, the appellant's request for a waiver from the penalty is **granted** for the months for which she was assessed. The determination that the appellant is eligible for a waiver is with respect to 2019, only and is based upon the extent of information submitted by her in this appeal.

PENALTY ASSESSED

Number of Months Appealed: 3

Number of Months Assessed: 0

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

Massachusetts Health Connector Appeals Unit

FINAL APPEAL DECISION: PA19-1063

Appeal Decision Appeal Approved.

Hearing Issue: Appeal of the 2019 Tax Year Penalty

Hearing Date: January 13, 2021

Decision Date: February 25, 2021

AUTHORITY

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

JURISDICTION

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

HEARING RECORD

Appellant appeared at the hearing, which was held by telephone, on January 13, 2021. The hearing record consists of the Appellant's testimony, and the following documents which were admitted into evidence without objection by Appellant:

- Exhibit 1: Notice of Hearing (12-15-20) (2 pages);
- Exhibit 2: Information from Schedule HC TY 2019 (1 page); and
- Exhibit 3: Statement of Grounds for Appeal (8-29-20) (with letter) (4 pages).

FINDINGS OF FACT

The record shows, and I so find:

1. Appellant, age 45 during 2019, from Bristol County, filed married filing separately on the tax return with a family size of 2. (Exhibit 2).
2. Appellant did not have health insurance for 2019. (Appellant's testimony, Exhibits 2, and 3).
3. Appellant's Federal Adjusted Gross Income for 2019 was \$38,507.00 (Exhibit 2).
4. Appellant's employer did not offer health insurance. (Appellant's testimony, Exhibit 3).
5. Appellant received shut-off notices in the spring and in the fall. Appellant also received two eviction notices, in the spring and in the fall.
6. Appellant's expenses for food, shelter, clothing, transportation, and other necessities, used all of the available income. (Appellant's Testimony). The monthly expenses for food, shelter, clothing,

vehicle expenses, and other necessities, totaled approximately \$3,230.00 per month averaged out, or \$39,360.00 for the year. (Appellant's Testimony, Exhibit 3).

7. I take administrative notice of the financial information set forth in Tables 1 through 6 in the DOR 2019 Massachusetts Schedule HC Health Care Instructions and Worksheets. Tables 3 and 4 incorporate affordability and premium schedules adopted by the Board of Directors for the Commonwealth Health Insurance Connector Authority for 2019. Table 2 sets forth income at 300% of the Federal poverty level and Tables 5 and 6 set forth tax penalties in effect for 2019.
8. Appellant could not afford health insurance based on the tables in Schedule HC (using the "family") column of the charts. According to Table 4, the health insurance would cost \$855.00 for coverage for family. The cost for an individual would be \$350.00 and would still be unaffordable. According to Table 3, Appellant was deemed to afford \$109.00.
9. Private insurance was not affordable for the Appellant in 2019. (Schedule HC for 2019).
10. Appellant's AGI was under 300% of the Federal Poverty Level for a family size of 2 (although it was over 300% for a family size of 1), and Appellant therefore may have qualified for subsidized health insurance through the Health Connector. (Schedule HC for 2019).
11. Appellant claimed that they should be granted a waiver based on the grounds that they had received shut-off notices and eviction notices, and that paying for health insurance would have caused a serious deprivation of food, shelter, clothing and other necessities during 2019. (Testimony of Appellant, Exhibit 3).
12. Appellant did not incur significant and unexpected increases in essential expenses as a result of domestic violence; due to the death of a spouse, family member, or partner who shared household expenses; the sudden responsibility for providing full care for an aging parent or other family member. Appellant did not incur additional expenses as a result of a fire, flood, or other natural or man-made disaster in 2019 (Exhibit 3).
13. Appellant was not homeless, but was thirty days or more behind in rent in 2019, and Appellant did receive a shut-off notice for basic utilities. (Appellant's Testimony, Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

The issue on appeal is whether the tax penalty assessed by the Massachusetts Department of Revenue for 2019 should be waived in whole, in part, or not at all.

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

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

Private insurance was not affordable for the Appellant during 2019 overall. According to Tables 3 and 4 of the HC Schedule for 2019, Appellant, with an adjusted gross income of \$38,507.00 was deemed to not have been able to afford health insurance on the private market. According to Table 3, Appellant could have afforded to pay \$109.00 per month; according to Table 4, Appellant, who was 45 years old in 2019, from Bristol County, and filed the 2019 Massachusetts taxes as married filing separately with a family size of 2, would have had to pay \$855.00 for family coverage or \$350.00 for individual per month for insurance on the private market. See CMR 6.05 (1)(2), Schedule HC Tables 3 and 4, and Exhibit 2.

With regard to the hardship waiver of the penalty, Appellant claimed that they had received shut-off notices and eviction notices during 2019, and that paying for health insurance would have caused a serious deprivation of food, shelter and other necessities. Appellant's expenses for food, shelter, clothing, vehicle expenses, and other necessities used all of the income, and Appellant received two shut-off notices and two eviction notices. For these reasons, the waiver of the penalty is approved.

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

PENALTY ASSESSED

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

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

NOTIFICATION OF YOUR RIGHT TO APPEAL TO COURT

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

Hearing Officer

Cc: Connector Appeals Unit

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